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HOUSE OF REPRESENTATIVES
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I certify that the attached is a true and correct copy of HB 2819, which was filed of record on 3-30-89 and referred to the committee on: Natural Resources
Betty Manning
Chief Clerk of the House

By J. L. Lollar

H. B. No. 2819

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, and operations of the Fort Bend Subsidence District; providing for civil penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. PURPOSE AND INTENT. (a) The purpose of this Act is to provide for the regulation of the withdrawal of groundwater within the district created by this Act to prevent subsidence that contributes to or precipitates flooding, inundation, or overflow of areas within the district, including rising waters resulting from storms or hurricanes.

(b) It is the intent of the legislature that the district created by this Act shall administer and enforce the terms of this Act and shall exercise its rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of this Act.

SECTION 2. DEFINITIONS. In this Act:

(1) "Person" includes a corporation, individual, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, or association, and any other legal entity.

(2) "District" means the Fort Bend Subsidence District.

(3) "Board" means the board of directors of the Fort

1 Bend Subsidence District.

2 (4) "Groundwater" means water existing below the
3 earth's surface within the district, but does not include water
4 produced with oil in the production of oil and gas.

5 (5) "Well" means a facility, device, or method used to
6 withdraw groundwater.

7 (6) "Withdraw" means the act of extracting groundwater
8 by pumping or some other method.

9 (7) "Drill" means drilling, equipping, or completing
10 wells or substantially altering the size of wells or well pumps.

11 (8) "Subsidence" means the lowering in elevation of
12 the surface of land by the withdrawal of groundwater.

13 (9) "Commission" means the Texas Water Commission.

14 SECTION 3. CREATION. Under Article XVI, Section 59, of the
15 Texas Constitution, a conservation and reclamation district is
16 created to be known as the Fort Bend Subsidence District. The
17 district is a governmental agency, a political subdivision of the
18 state, and a body politic and corporate.

19 SECTION 4. BOUNDARIES. (a) The district includes all of
20 the territory within Fort Bend County.

21 (b) An adjoining county may be added to the district on
22 application of the commissioners court of the adjoining county and
23 compliance with the applicable provisions of Sections
24 55.730-55.744, Water Code.

25 (c) The proposition on the ballots for an election to add an
26 adjoining county to the district shall be printed to permit voting
27 for or against the proposition: "Addition of _____ County to

1 the Fort Bend Subsidence District."

2 (d) A county added to the district under this section is
3 subject to the jurisdiction of the board and this Act.

4 SECTION 5. BOARD OF DIRECTORS. (a) The district is
5 governed by a board of 13 directors.

6 (b) One director from each of the following cities in Fort
7 Bend County shall be appointed by the mayor of the respective city:

8 (1) Houston;

9 (2) Missouri City;

10 (3) Stafford;

11 (4) Sugar Land;

12 (5) Rosenberg; and

13 (6) Richmond.

14 (c) The Commissioners Court of Fort Bend County shall
15 appoint two directors who represent agricultural interests and live
16 in an unincorporated area, two directors who represent industrial
17 interests, and two directors who represent business interests.

18 (d) One director shall be appointed by the mayors of the
19 incorporated cities within the county not listed in Subsection (b)
20 of this section.

21 (e) If an adjoining county is added to the district, four
22 members shall be added to the board. Two members shall be chosen
23 by the commissioners court of the county added to the district.
24 One member each shall be chosen by the mayors of the two cities in
25 the county added to the district that have the largest populations
26 according to the most recent federal decennial census. The four
27 new members shall draw lots to establish staggered terms of office.

1 (f) All directors must be residents of and qualified voters
2 in the district.

3 (g) The county judge of Fort Bend County shall set a date,
4 time, and place for a meeting of the persons designated in
5 Subsections (b), (c), and (d) of this section to choose the initial
6 directors. The county judge shall choose a date not later than the
7 30th day after the effective date of this Act. The county judge
8 shall mail notices of the meeting to the persons designated to
9 choose the directors. The county judge shall appoint a person to
10 preside at the meeting. The directors chosen at the meeting shall
11 assume their positions not later than the fifth day after the date
12 of the meeting.

13 (h) Selection of subsequent directors shall be made on the
14 second Monday in January at 11 a.m. in the district's main office.
15 Not later than the 20th day before the date of the meeting, the
16 district shall mail notice of the meeting to the persons designated
17 in Subsections (b), (c), (d), and (e) of this section to choose
18 directors.

19 (i) The terms of office for the initial directors shall be
20 as follows:

21 (1) five members chosen under Subsection (b) of this
22 section and four members chosen under Subsection (c) of this
23 section shall serve for terms expiring January 31, 1991; and

24 (2) one member chosen under Subsection (b) of this
25 section, two members chosen under Subsection (c) of this section,
26 and the member chosen under Subsection (d) of this section shall
27 serve for terms expiring January 31, 1990.

1 (j) Except as provided by Subsection (i) of this section,
2 members of the board shall serve for terms of two years.

3 (k) At the time the county judge of Fort Bend County sets
4 the meeting required by Subsection (g) of this section, the county
5 judge shall set the date, time, and place for the initial meeting
6 of the board. Not later than the 20th day before the date of the
7 initial meeting of the board, the county judge shall mail notices
8 of the meeting to the initial directors.

9 (l) At the initial meeting of the board and each year at the
10 first meeting after new directors take office, the directors shall
11 select a chairman, a vice-chairman, and a secretary. The chairman,
12 vice-chairman, and secretary shall serve at the pleasure of the
13 board and may be removed and replaced by a majority of the board at
14 any time.

15 (m) The chairman shall preside over meetings of the board.
16 If the chairman is not present, the vice-chairman shall preside.

17 (n) Each director is entitled to receive \$50 a day for each
18 day he is engaged in the exercise of his duties under this Act and
19 necessary travel and other expenses incurred in the exercise of his
20 duties under this Act. A member of the board may not receive
21 compensation and travel and other expenses for more than 120 days
22 in any one calendar year.

23 (o) If a vacancy occurs on the board, the person or persons
24 designated in Subsection (b), (c), (d), or (e) of this section to
25 appoint a director for the position that is vacated shall appoint a
26 director to serve the unexpired term.

27 (p) Each director shall take the oath of office prescribed

1 by law for county commissioners and shall execute a bond in the
2 amount of \$5,000, payable to the district, conditioned on the
3 faithful performance of his duties. The district shall pay for the
4 bond.

5 (q) A majority of the directors constitute a quorum for
6 transaction of business of the district. An official act of the
7 board is not valid without the affirmative vote of a majority of
8 the directors.

9 (r) The board shall hold one regular meeting each month at a
10 time set by the board. The board may hold special meetings at the
11 call of the chairman or on the written request of at least three
12 directors.

13 SECTION 6. POWERS AND DUTIES IN GENERAL. (a) The board
14 shall administer this Act as provided by Section 1 of this Act.

15 (b) Withdrawals of groundwater covered by this Act are
16 subject to reasonable rules, regulations, and orders adopted by the
17 board.

18 (c) In adopting rules, regulations, and orders, the board
19 shall consider the following factors:

20 (1) availability of surface water;
21 (2) economic impact on persons and the community;
22 (3) degree and effect of subsidence on the surface of
23 the land; and

24 (4) differing topographical and geophysical
25 characteristics of the land.

26 (d) The board has all other powers necessary or convenient
27 to carry out its responsibilities and achieve the purpose of this

1 Act.

2 SECTION 7. GENERAL MANAGER. (a) The board shall employ a
3 general manager who shall be the chief administrative officer of
4 the district. The board may delegate to the general manager the
5 authority to manage and operate the affairs of the district subject
6 only to orders of the board.

7 (b) The duties of the general manager include:

8 (1) administration of the orders of the board;

9 (2) coordination with state, federal, and local
10 agencies;

11 (3) supervision of the development of plans and
12 programs of the district;

13 (4) preparation and submission of the annual budget to
14 the board; and

15 (5) other duties assigned by the board.

16 (c) The general manager shall execute a bond in an amount
17 determined by the board, payable to the district, conditioned on
18 the faithful performance of his duties. The district shall pay for
19 the bond.

20 (d) The district may contract with any person to perform the
21 duties of general manager.

22 SECTION 8. EMPLOYEES. (a) The board shall employ personnel
23 necessary for the proper handling of the business and operation of
24 the district and may employ attorneys, bookkeepers, engineers, and
25 other expert and specialized personnel that are considered
26 necessary. The board shall determine the compensation to be paid
27 by the district to the employees.

1 (b) The board shall determine the term of office of and the
2 compensation to be paid to the general manager. The board may
3 discharge the general manager by a majority vote. The board may
4 discharge employees of the district.

5 (c) The board shall require an employee who collects, pays,
6 or handles funds of the district to furnish good and sufficient
7 bond, payable to the district, for a sufficient amount to safeguard
8 the district. The bond shall be conditioned on the faithful
9 performance of the employee's duties and on accounting for all
10 funds and property of the district under the employee's control.
11 The district shall pay for the bond.

12 SECTION 9. DISTRICT OFFICE. The board shall maintain its
13 principal office for conducting the business of the district. The
14 office must be located inside the district.

15 SECTION 10. MINUTES AND RECORDS OF DISTRICT. The district
16 shall keep a true and complete account of the board's meetings and
17 proceedings and shall preserve the board's minutes, contracts,
18 records, notices, accounts, and receipts in a fireproof vault or
19 safe. The board's minutes, contracts, records, notices, accounts,
20 and receipts are the property of the district and are subject to
21 public inspection.

22 SECTION 11. SUITS. The district may sue and be sued in the
23 courts of this state in the name of the district by and through the
24 board. If requested by the district, the attorney general shall
25 represent the district in the district and appellate courts of this
26 state and in the courts of the United States. The board, in its
27 sole discretion, may employ attorneys to represent the district in

1 the district and appellate courts of this state and in the courts
2 of the United States. All courts shall take judicial notice of the
3 creation of the district and of its boundaries.

4 SECTION 12. SEAL. The board shall adopt a seal.

5 SECTION 13. RULES AND REGULATIONS. (a) After notice and
6 hearing under Section 14 of this Act, the board shall adopt and
7 enforce rules and regulations that are designed to expeditiously
8 and effectively accomplish the provisions and purposes of this Act,
9 including rules governing procedure before the board.

10 (b) The board shall compile its rules and regulations in a
11 book and make the book available for use and inspection at the
12 district's principal office. The district shall provide copies of
13 its rules and regulations on payment of the cost of reproduction.

14 SECTION 14. HEARINGS. (a) At regular meetings of the
15 board, the board shall set the dates, times, and locations for
16 hearings to be held under this Act.

17 (b) Not later than the 20th day before the date set for a
18 hearing, the district shall deliver or mail notice of the hearing
19 under this section to each county and municipal government within
20 the district and to each person that the board believes has an
21 interest in the subject matter to be dealt with at the hearing.

22 (c) Not later than the 20th day before the date set for a
23 hearing, the district shall publish notice of the hearing under
24 this section once in a newspaper of general circulation in each
25 county within the district.

26 (d) Not later than the 20th day before the date set for a
27 hearing, the district shall post the notice of the hearing under

1 this section at the county courthouse of each county within the
2 district in the place where notices are usually posted.

3 (e) Any person who desires to appear at a hearing and
4 present testimony, evidence, exhibits, or other information may do
5 so in person, by counsel, or both.

6 (f) The board may hold hearings at any location within the
7 district.

8 (g) The board may recess a hearing from day to day.

9 (h) The board may use hearing examiners to hear any subject
10 set for the hearing. Procedures for use of hearing examiners shall
11 be provided in the rules and regulations.

12 SECTION 15. COMPELLING TESTIMONY, SWEARING WITNESSES, AND
13 SUBPOENAS. The board may subpoena a person to testify if the
14 person's testimony is necessary to carry out the powers, duties,
15 and functions of the board under this Act. The board may
16 administer oaths to persons who testify before the board. The
17 board may subpoena documents if the documents are necessary to
18 carry out the powers, duties, and functions of the board under this
19 Act. On application of the board, a district court shall enforce
20 the subpoena in the same manner as a subpoena issued by the court.

21 SECTION 16. DISTRICT PLAN. (a) Under Section 14 of this
22 Act, the board shall formulate a plan to control and prevent
23 subsidence within the district. The plan shall accomplish this
24 purpose by the regulation of groundwater withdrawals to maintain
25 sufficient artesian pressure to control and prevent subsidence.

26 (b) The plan shall specify, in as much detail as
27 practicable, the acts, procedures, performance, and avoidance that

1 are necessary to carry out the purposes of this Act.

2 (c) When formulating the plan, the board shall compile and
3 consider:

4 (1) a list of wells in the district that will be
5 subject to regulation under this Act;

6 (2) an accurate estimate of groundwater production
7 from each well or proposed well in the district;

8 (3) an accurate estimate of the amount of groundwater
9 that may be produced from each well and each area in the district
10 without causing drawdown of the water table and reduction of
11 artesian pressure that will lead to subsidence within the district;

12 (4) an accurate estimate of the current and future
13 water needs of each well owner in the district;

14 (5) an accurate estimate of the groundwater production
15 capacity of each well in the district;

16 (6) a list of all available sources of water in the
17 district other than groundwater;

18 (7) the purpose for which the water is currently used
19 and for which it is proposed to be used in the future;

20 (8) information relating to formulation of a permit
21 system; and

22 (9) other information necessary to carry out the
23 management of groundwater in the district and to effectively and
24 expeditiously accomplish the purposes of this Act.

25 (d) The plan shall be formulated not later than 12 months
26 after the effective date of this Act.

27 (e) Not later than the 60th day after the date the plan is

1 formulated, the board shall review and adopt the plan.

2 (f) Before the plan is adopted, the board shall hold a
3 hearing under Section 14 of this Act to consider the proposed plan.

4 (g) After the hearing, the board shall make any changes it
5 considers necessary based on evidence and material presented at the
6 hearing and shall adopt the plan.

7 (h) The plan adopted under this section may be amended or
8 repealed. A new plan may be adopted in the manner provided in this
9 section for the adoption of the original plan. A plan, once
10 adopted, shall remain in effect until the adoption of a new plan.

11 SECTION 17. TEMPORARY REGULATION. During the period that
12 the board is formulating and adopting the plan under Section 16 of
13 this Act, the board shall adopt temporary rules and regulations
14 relating to the withdrawal of groundwater that are necessary to
15 control subsidence.

16 SECTION 18. PERMIT REQUIREMENT. (a) The owner of a well
17 located in the district must obtain a permit from the board to
18 withdraw groundwater.

19 (b) Owners of wells operating or being drilled on the
20 effective date of this Act must apply for a permit before January
21 1, 1990, and may continue to operate the well without a permit
22 until the application for a permit for the well is acted on by the
23 board.

24 (c) A permit issued under this Act is valid for a term of
25 one year from the date it is issued unless a longer or shorter term
26 is specified by the board. The board may issue a permit for a term
27 not to exceed five years in order to aid the district in the

1 effective and expeditious performance of its duties if issuance of
2 the permit does not impair the ability of the district to control
3 and prevent subsidence within the district.

4 (d) A permit may be revoked, suspended, modified, or amended
5 after notice and public hearing under Section 14 of this Act
6 whenever reasonably necessary to accomplish the purposes of this
7 Act.

8 (e) Permits may be renewed in the same manner as permits are
9 issued.

10 (f) To obtain a permit, a person must submit an application
11 and an application fee to the board. The application must state:

- 12 (1) the person's name;
- 13 (2) the person's address;
- 14 (3) the location and wellhead elevation of the well or
15 proposed well;
- 16 (4) the amount of water being produced or proposed to
17 be produced; and
- 18 (5) any other information required by the board as
19 necessary for the board to control and prevent subsidence in the
20 district.

21 (g) The board shall use the application fee to process
22 applications.

23 SECTION 19. NOTICE AND HEARING ON PERMIT. (a) The board
24 shall hold a hearing on each application.

25 (b) Not later than the 20th day before the date set for the
26 hearing, the board shall notify the applicant by certified mail,
27 return receipt requested, of the date, time, and location of the

1 hearing.

2 (c) Except as provided by this section, the hearing shall be
3 conducted and notice of hearing given under Section 14 of this Act.

4 (d) The board may consider as many applications for permits
5 as it considers necessary at a hearing.

6 SECTION 20. ISSUANCE OF PERMIT. (a) Not later than the
7 35th day after the date of the hearing, the board shall decide
8 whether or not to issue a permit and shall formulate the terms of
9 the permit, if issued.

10 (b) In deciding whether or not to issue a permit and in
11 setting the terms of the permit, the board shall consider:

12 (1) the purpose of this Act;

13 (2) the district plan;

14 (3) the quality, quantity, and availability of surface
15 water at prices competitive with those charged by suppliers of
16 surface water within the district; and

17 (4) the economic impact on the applicant of granting
18 or denying the permit or of the terms prescribed by a permit in
19 relation to the effect on subsidence that would result.

20 (c) The board shall grant a permit to an applicant whenever
21 the board finds on sufficient evidence that:

22 (1) there is no other adequate and available
23 substitute or supplemental source of surface water at prices
24 competitive with those charged by suppliers of surface water within
25 the district; and

26 (2) compliance with any provision of this Act, or any
27 rule or regulation of the district, will result in an arbitrary

1 taking of property or in the practical closing and elimination of
2 any lawful business, occupation, or activity, without sufficient
3 corresponding benefit or advantage to the people.

4 (d) If the board decides to issue the permit, the permit
5 must state the terms prescribed by the board.

6 (e) The permit must include the following:

7 (1) the name and address of the permittee;

8 (2) the location of the well;

9 (3) the date the permit begins and the date the permit
10 expires;

11 (4) conditions and restrictions placed on the
12 withdrawal of groundwater;

13 (5) adoption of water conservation measures for the
14 purpose of preventing waste of groundwater, including educational
15 programs; and

16 (6) any other terms and conditions necessary to
17 control and prevent subsidence.

18 SECTION 21. PERMIT NOT TRANSFERABLE. A permit issued under
19 this Act is not transferable unless the permittee and new owner
20 notify the district by certified mail, return receipt requested, of
21 the transfer of ownership of the well and provide the name and
22 address of the new owner. On receipt of that information, the
23 district shall issue an amended permit with the new owner of the
24 well as permittee. The remaining terms of the permit shall remain
25 unchanged.

26 SECTION 22. ANNUAL REPORTS. Before January 31 of each year,
27 each owner of a well who holds a permit under this Act shall submit

1 a report to the board stating the following:

2 (1) the person's name;

3 (2) the location of the well;

4 (3) the total amount of groundwater produced by the
5 well during the immediately preceding 12-month period;

6 (4) the total amount of groundwater produced by the
7 well during each separate month of the immediately preceding
8 12-month period;

9 (5) the purpose for which the groundwater was used;

10 (6) the date the permit expires; and

11 (7) any other information required by the board as
12 necessary for the board to control and prevent subsidence within
13 the district.

14 SECTION 23. BOARD INVESTIGATIONS. At least once each year
15 and at any other time that the board considers necessary, the board
16 may have its staff make a complete study of the groundwater
17 situation within the district and determine the water level, rates
18 of withdrawal, amounts of withdrawal, and other information
19 relating to the withdrawal of groundwater that may affect the
20 subsidence of land within the district.

21 SECTION 24. ANNUAL GROUNDWATER WITHDRAWAL DETERMINATION.

22 (a) Before March 31 of each year, the board shall hold a hearing
23 under Section 14 of this Act to determine the effects during the
24 preceding calendar year of groundwater withdrawal on the subsidence
25 of land within the district.

26 (b) At the hearing, the board shall consider the annual
27 reports submitted under Section 22 of this Act and the

1 investigation made under Section 23 of this Act in addition to
2 information represented by persons appearing before the board.

3 (c) After the hearing, the board shall consider all the
4 information presented to it and shall determine the groundwater
5 withdrawal in the district during the preceding calendar year and
6 shall make findings of the effects of groundwater withdrawal during
7 that year on the subsidence of land within the district. A report
8 of the board's findings and determinations shall be made available
9 for examination by any interested person.

10 SECTION 25. REGULATION OF SPACING AND PRODUCTION. (a) In
11 order to minimize as far as practicable the drawdown of the water
12 table and reduction of artesian pressure and to control and prevent
13 subsidence, the board may provide for the spacing of wells and
14 regulate the production of groundwater from the wells, taking into
15 consideration any relevant factors, including the economic impact
16 on well owners and the resulting effect on subsidence.

17 (b) Before issuing any rule, regulation, or order under this
18 section, the board shall set a hearing on the proposed rule,
19 regulation, or order and issue notice of the hearing. Notice must
20 be given and hearings conducted in the manner provided in Section
21 14 of this Act.

22 SECTION 26. REQUIRING WATER-METERING DEVICES. The board may
23 adopt orders after notice and hearing under Section 14 of this Act
24 requiring water-metering devices to be placed on wells.

25 SECTION 27. ACCESS TO PROPERTY. (a) To carry out technical
26 and other investigations necessary to the implementation of this
27 Act, the board and its agents and employees are entitled to access

1 to all property within the district.

2 (b) Before entering property for the purposes stated in
3 Subsection (a) of this section, the person seeking access shall
4 give notice to the owner of the property in the manner provided by
5 the rules and regulations of the district and shall present proper
6 credentials.

7 (c) The board, and its agents and employees who enter
8 private property, shall observe the establishment's rules and
9 regulations concerning safety, internal security, and fire
10 protection.

11 SECTION 28. MONITORING AND SUPERVISIONS OF DISTRICT. The
12 district may use subsidence compaction monitors, water level
13 observation wells, and other materials and equipment to determine
14 the amount of groundwater that may be produced while allowing the
15 rebound and stabilization of groundwater to a level that will halt
16 subsidence.

17 SECTION 29. RESEARCH AND STUDIES. The board may conduct
18 studies and research that it considers necessary to implement this
19 Act. The board may use the services of geologists, hydrologists,
20 registered professional engineers, or other expert personnel to
21 accomplish the purposes of this section.

22 SECTION 30. COOPERATION WITH AND ASSISTANCE OF OTHER
23 GOVERNMENTAL ENTITIES. The board may cooperate with and request
24 the assistance of the Texas Water Development Board, the
25 commission, the United States Geological Survey, local governments,
26 and other agencies of the United States and the State of Texas in
27 implementing this Act.

1 SECTION 31. CONTRACTS. The board may enter into contracts
2 with any person to carry out this Act.

3 SECTION 32. APPEAL OF DISTRICT ACTIONS TO A DISTRICT COURT.

4 (a) A person who is adversely affected by a rule, regulation,
5 order, or other official action of the board may appeal to a
6 district court in any county in the district.

7 (b) For the purposes of this section, "a person who is
8 adversely affected" includes a person residing in or owning real
9 property in the district whose residence or real property is
10 subsiding. An appeal under this section must be filed not later
11 than the 45th day after the date the rule, regulation, order, or
12 other official action appealed from is promulgated.

13 (c) On written request of a person who is adversely
14 affected, the board shall make written findings and conclusions
15 with respect to a rule, regulation, order, or other official action
16 of the district. Not later than the 35th day after the request was
17 made, the board shall provide a certified copy of the findings and
18 conclusions to the person who made the request.

19 (d) In appeals taken under this section, the substantial
20 evidence rule shall be used to determine the legal propriety of a
21 rule, regulation, order, or other action of the board.

22 SECTION 33. APPEAL OF CERTAIN DISTRICT ACTIONS TO THE
23 COMMISSION. (a) As an alternative to the appeal provided by
24 Section 32 of this Act, a person who is granted a permit
25 authorizing withdrawal of groundwater in an amount less than
26 requested by that person may appeal the board's final decision to
27 the commission. The appeal shall be filed not later than the 60th

1 day after the date of the final order of the board.

2 (b) On written request of the person proposing to appeal an
3 order under Subsection (a) of this section, the board shall make
4 written findings and conclusions with respect to the order and
5 shall provide certified copies of the findings and conclusions to
6 the person making the request not later than the 35th day after the
7 date on which the written request is submitted to the board.

8 (c) The effect of a board order is stayed until the decision
9 of the commission in an appeal under this section is final.

10 (d) The review on appeal to the commission under this
11 section is governed by the substantial evidence rule as provided by
12 Section 19(e), Administrative Procedure and Texas Register Act
13 (Article 6252-13a, Vernon's Texas Civil Statutes).

14 (e) The commission may adopt necessary rules to carry out
15 the provisions of this section.

16 (f) An appeal from a final decision of the commission is to
17 a district court in Travis County and is governed by the
18 substantial evidence rule. Any party to the proceedings before the
19 commission may appeal a decision of the district court in the
20 manner provided for other civil actions, but a party appealing a
21 decision of a district court is not required to provide an appeal
22 bond.

23 (g) Under this section, the commission may adopt and assess
24 reasonable and necessary fees adequate to recover the costs of the
25 commission in administering this section.

26 SECTION 34. PERMIT FEE. (a) At the time a permit is issued
27 or renewed, the board shall collect from the permittee a permit

1 fee, established by schedule, based on the term of the permit and
2 the maximum amount of groundwater authorized by the board to be
3 withdrawn annually from the well.

4 (b) The fee schedule shall be determined by the board after
5 a hearing under Section 14 of this Act.

6 (c) The board shall use the funds obtained from permit fees
7 to cover the costs of issuing permits and performing other
8 functions under this Act.

9 SECTION 35. GRANTS, PURCHASES, GIFTS, LEASES, ETC. On
10 behalf of the district, the board may:

11 (1) purchase, lease, own, convey, and dispose of
12 property both inside and outside the district necessary or
13 convenient to the exercise of the powers, duties, and functions of
14 the board under this Act;

15 (2) accept grants, gifts, and devises of property;

16 (3) construct, purchase, lease, or acquire in some
17 other manner any material or property necessary to carry out this
18 Act; and

19 (4) accept gifts, grants, loans, or other
20 distributions of money.

21 SECTION 36. OWNERSHIP OF GROUNDWATER. The ownership and
22 rights of the owner of land and his lessees and assigns in
23 groundwater are recognized and nothing in this Act shall be
24 construed as depriving or divesting the owner or his lessees and
25 assigns of the ownership or rights, subject to rules and
26 regulations and orders and other official actions of the district.
27

SECTION 37. SURFACE WATER LAWS NOT APPLICABLE. The laws and

1 accountant or a firm of independent certified public accountants of
2 recognized integrity and ability. The district shall pay for the
3 audit.

4 (b) The board shall deliver a copy of the audit to the
5 commissioners court of each county in the district. The board
6 shall keep one copy of the audit at the district office, open to
7 inspection by any interested person during normal office hours.

8 SECTION 42. DEPOSITORY BANKS. (a) The board shall
9 designate one or more banks within the district to serve as
10 depository for the funds of the district. Except as provided by
11 Subsection (b) of this section, all funds of the district shall be
12 deposited in a depository bank.

13 (b) To the extent provided in a trust indenture, bond
14 proceeds and funds pledged to pay bonds may be deposited with the
15 trustee bank named in the trust indenture and shall be remitted to
16 the bank of payment for the payment of the principal of and
17 interest on the bonds.

18 (c) To the extent that funds in a depository bank or a
19 trustee bank are not invested or insured by the Federal Deposit
20 Insurance Corporation, they shall be secured in the manner provided
21 by law for the security of county funds.

22 (d) Before designating a depository bank, the board shall
23 issue a notice stating the time and place the board will meet for
24 that purpose and shall invite the banks in the district to submit
25 applications to be designated depositories. The term of service
26 for depositories shall be prescribed by the board. The board shall
27 publish the notice once in a newspaper of general circulation in

1 the district or mail a copy of the notice to each bank in the
2 district.

3 (e) The board shall consider the management and condition of
4 the banks that apply and shall designate as depositories the bank
5 or banks that offer the most favorable terms and conditions for
6 handling of the funds of the district and that the board finds have
7 proper management and are in condition to warrant handling of
8 district funds.

9 (f) Membership on the board of an officer or director of a
10 bank does not disqualify the bank from being designated as
11 depository.

12 (g) If no applications are received before the meeting, the
13 board shall designate a bank or banks within or outside the
14 district on terms and conditions it finds advantageous to the
15 district.

16 SECTION 43. PENALTIES. (a) If a person has violated, is
17 violating, or is threatening to violate a provision of this Act or
18 a rule, regulation, permit, or other order of the district, the
19 district may bring a civil action in a district court within the
20 district for an injunction to restrain the person from continuing
21 the violation or the threat of violation, for a civil penalty of
22 not less than \$50 nor more than \$5,000 for each violation and for
23 each day of violation, or for both injunctive relief and civil
24 penalty.

25 (b) At the request of the district, or the general manager
26 authorized by the board, the attorney general shall institute the
27 action. However, the district in its sole discretion may employ

LETTER OF TRANSMITTAL
HOUSE OF REPRESENTATIVES
STATE OF TEXAS

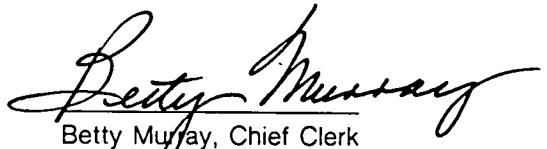
TO: The Honorable William P. Clements, Jr.
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Water Commission copies of House Bill No. 2819, a bill relating to a conservation and reclamation district, and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Water Commission, under Section 59(d), Article XVI, Constitution of the State of Texas.

MAR 30 1989

Date transmitted to
Governor's Office


Betty Murray, Chief Clerk
House of Representatives

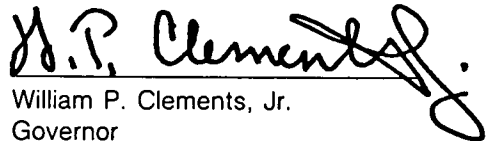
TO: Texas Water Commission

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of House Bill No. 2819, a bill relating to a conservation and reclamation district, and a copy of the notice of intention to introduce the bill.

3/31/89

Date transmitted to
Texas Water Commission


William P. Clements, Jr.
Governor


TO: The Honorable Gibson D. "Gib" Lewis
Speaker of the House

The Honorable William P. Hobby
President of the Senate

The Honorable William P. Clements, Jr.
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are the recommendations of the Texas Water Commission on House Bill No. _____, in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.



Allen Beinke
Executive Director

PUBLISHER'S AFFIDAVIT

THE STATE OF TEXAS

County of Fort Bend,

On this the 10 day of March, A. D. 19 89, personally appeared before the undersigned, a Notary Public in and for said county and state, Clyde C. King, Jr. Associate Publisher of The Herald-Coaster, a newspaper published at Rosenberg, County of Fort Bend, State of Texas, who, being by me duly sworn, on oath, states that the advertisement, a true copy of which is hereto annexed, was published in (SEAL)

said newspaper in one issue(s) thereof on the following date(s):

February 10

A. D. 1989.

PUBLIC NOTICE
A BILL TO BE ENTITLED AN ACT
relating to the creation, administra-
tion, power, duties, and operations of
the Fort Bend Subsidence District will
be filed in Austin March 10, 1989.

Clyde C. King, Jr.
Subscribed and sworn to before me, this
the 10 day of March A. D. 1989.

Lori Bobbitt
Notary Public in and for Fort Bend County,
Texas
Lori Bobbitt
My Commission expires 3/18/89

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner



Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

April 19, 1989

The Honorable William P. Clements, Jr.
Governor of Texas

The Honorable William P. Hobby
Lieutenant Governor and President of the Senate

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution.

Bill No. (H.B. 2819) - Proposed creation of a conservation and reclamation district pursuant to Article III, S52 and Article XVI, S59(d), Texas Constitution: Fort Bend Subsidence District

Dear Governor Clements:

The following attachment is submitted in response to the above-referenced constitutional requirements. Items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

A handwritten signature in cursive script that reads "Allen Beinke".

Allen P. Beinke
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King, Secretary of the Senate
Representative Terral Smith, Chairman,
House Natural Resources Committee
Speaker of the House Gib Lewis, House of Representatives
Senator H. Tati Santiesteban, Chairman,
Senate Natural Resources Committee
Senator Bill Sims, State Senate
Representative Jim Tallas, House of Representatives

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner



Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

April 19, 1989

The Honorable Gib Lewis
Speaker of the House of Representatives
P.O. Box 2910
Austin, Texas 78769

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Sec. 36.

Bill No. (H.B. 2819) - Proposed creation of a conservation and reclamation district pursuant to Article III, S52 and Article XVI, S59(d), Texas Constitution: Fort Bend Subsidence District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments on items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

A handwritten signature in cursive script that reads "Allen Beinke".

Allen Beinke
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King, Secretary of the Senate
Representative Terral Smith, Chairman,
House Natural Resources Committee
Senator Bill Sims, State Senate
Representative Jim Tallas, House of Representatives

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATED TO THE FORT BEND
SUBSIDENCE DISTRICT

Water Development Policy Impact Statements for House Bill 2819 (H.B. 2819) relating to the creation, administration, powers, duties, operation, and financing of the Fort Bend Subsidence District follow.

Wells located within the limits of this proposed district which covers all of Fort Bend County, utilize the Gulf Coast aquifer. During the period from 1975-1985, excessive water-level declines occurred primarily in the southeastern one-half of the county, with up to 40 feet of water-table decline taking place. During this same time, between 50-100 feet of artesian decline also occurred in the north-central part of the county. Excessive pumpage with its associated water-level declines, triggers land-surface subsidence. This is hydrogeologic justification for the district. The Harris-Galveston Coastal Subsidence District which encompasses all of Harris and Galveston Counties, adjoins the proposed district on the northeast. Fort Bend County lies within a state designated critical area.

H.B. 2819 provides for the regulation of the withdrawal of groundwater within the district to prevent subsidence which contributes to or precipitates flooding, inundation, or overflow of areas, including rising waters resulting from storms or hurricanes. The district shall exercise its rights, powers, and duties in a manner which will effectively and expeditiously accomplish the purpose of the act. The district is proposed to be created under Article XVI, Section 59, of the Texas Constitution and as a conservation and reclamation district. Specific impact statements related to required headings follow:

- 1) **Population projections** - The proposed District is coterminous with the boundaries of Fort Bend County. The Board's current projected

population for Fort Bend County indicates an anticipated increase in population ranging from 154,831 to 208,720 over the next 20 years.

- 2) **District finances** - The district shall collect from a permittee (owner of a well other than specific types which are excluded) a permit fee, established by a schedule set by the board following a hearing, based on the term of the permit (one to five years) and the maximum amount of ground water authorized to be withdrawn annually from the well. Permit fee funds obtained shall be used to cover the costs of issuing permits and performing other district functions. The district may also accept grants, gifts, devises of property (which it may dispose of), and other distributions of money.
- 3) **Board of directors & powers** - This proposed district is to be governed by a board of 13 directors. Six of these are to be composed of one director each from the cities of Houston, Missouri City, Stafford, Sugar Land, Rosenberg, and Richmond who are to be appointed by the mayor of the respective cities. Five of these shall serve terms expiring January 31, 1991. One member's term shall expire January 31, 1990. Two directors representing agricultural interests who live in an unincorporated area, and four directors (two each) will represent industrial and business interests. Four of the six shall serve terms expiring January 31, 1991. The terms of the other two shall expire January 31, 1990. Additionally, one director will be appointed by all of the mayors of the other incorporated cities of the county. Except as provided for the one city member and two agricultural, industrial, or business members whose terms expire in January 31, 1989, the rest shall serve terms of two years. In the event an adjoining county is added to the district, four additional members will be added to the board. Two of these members will be chosen by the commissioners court of the affected county and one member each will be chosen by the mayors of the two cities of the affected county having the largest populations according to the most recent federal decennial census. The four new members shall draw lots to establish staggered two year terms.

Since the bill creates a ground-water subsidence district under Article XVI, Section 59 of the Texas Constitution, and powers relating to Chapters 50, 51, and 52 of the Texas Water Code are not included, its powers are limited to those specifically set out in the bill. The bill requires that the board shall administer this act to provide for the regulation of the withdrawal of ground water within the district to prevent subsidence which contributes to or precipitates flooding, inundation, or overflow of areas, including rising waters resulting from storms or hurricanes. The district shall administer and enforce the terms of this act and shall exercise its rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of the act. Specifically, the district shall control the withdrawals of ground water with reasonable rules, regulations, and orders. These shall consider: 1) availability of surface water, 2) the economic impact on the community, 3) the degree and effect of subsidence on the surface of the land, 4) differing topographical and geophysical characteristics of the land, and 5) the board has all other powers necessary or convenient to carry out its responsibilities and achieve the act's purposes.

The district may sue and be sued in the courts in the name of the district by and through the board. The board may employ attorneys to represent the district in district and appellate courts of the state and in the courts of the United States. The district may hold hearings to receive testimony, evidence, exhibits, and other information. The board has the power to subpoena a person or documents and to enforce the subpoena. It also has the power to administer oaths necessary to carry out the powers, duties, and functions of the board.

The board is empowered to formulate a plan within 12 months to control and prevent subsidence; adopt temporary rules during plan development; require well permits for one to five years and revoke, suspend, or modify these permits; to conduct required hearings; prepare annual reports relating to the number of wells and their respective pumpage; make annual studies of the ground-water situation including determination of the effects of ground-water withdrawal on subsidence;

regulate well spacing and pumpage; require metering devices; access property to conduct investigations; use monitoring devices to determine water-level declines and land-surface compaction; to cooperate with and obtain assistance from other governmental entities; to conduct research and studies; to enter into contracts with any person; disburse funds; and to assess penalties for violations of district regulations.

The district's powers do not apply to surface water and it may not sell or distribute surface or ground water. The act also recognizes private ownership of ground water. Additionally, the district may not control certain types of wells specifically set out in the bill. These include wells with a casing having an inside diameter of five inches or less that serve a single-family dwelling which have a negligible effect on subsidence.

- 4) **Effect on Texas Water Development Board's water plan** - The Board finds that creation of a proposed subsidence control district is consistent with the State Water Plan objective of local control of groundwater to prevent the effects of subsidence in southeastern Texas. The Board has provided regional water supply planning grant assistance to improve the management of groundwater and promote conversion to surface water supplies in most of Fort Bend County, and the results of the Board-funded planning projects indicate a need to better manage groundwater resources in the area.
- 5) **Texas Water Commission's supervision** - This proposed district will be under the "continuing right of supervision of the State of Texas" by the Commission as set out by Section 12.081 of the Texas Water Code. It is also subject to applicable general reporting provision requirements for all districts as set out in Subchapter A, Sections 50.001 through 50.106, Texas Water Code.
- 6) **Eminent domain power** - This district does not have this power.

- 7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the district; however, Section 4 of the bill sets out the procedure for adding adjoining counties to the district.
- 8) **Adequacy of the boundary description** - The district includes all of the area located within Fort Bend County, therefore, the boundary description is adequate. At present there are a total of 125 water-related districts in existence within the county. Additionally, there are four municipal utility districts on which a hearing is pending. A breakout of those districts now in existence, by category, are as follows: 108 municipal utility, 10 levee improvement/flood control, 6 water control and improvement, and 1 drainage. These are all located in the northern one-half of the county and north of the community of Pleak. Many of the municipal utility districts undoubtedly have wells which would be required to be permitted, subjected to regulation of spacing and production, and would be required to pay a permit fee based on the term of the permit and the maximum amount of ground water authorized to be withdrawn annually from the well.
- 9) **Comments on powers and duties different from similar types of districts**
This district has the normal powers and duties accorded to a subsidence district and the bill goes into great detail on its operation. The bill requires the formulation and review of a management plan within the brief period of 12 months after the effective date of the bill. This does not allow sufficient time for this project. Since the district may contract with any person to perform the duties of general manager and it may enter into contracts with any person, this may allow it to contract with the Harris-Galveston Coastal Subsidence District for general management services and the development of the required management plan.

For clarification of the bill, the following changes are recommended:

- a) on page 7, lines 22 and 26, the word "board" should be changed to general manager; b) on page 10, lines 22 and 25, the word "prevent" should be changed to mitigate; and c) on page 11, line 10, the phrase

"drawdown of the water table" should be changed to long-term static water-level decline.

HOUSE COMMITTEE REPORT

1st Printing

By Tallas

H.B. No. 2819

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, and operations of the Fort Bend Subsidence District; providing for civil penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. PURPOSE AND INTENT. (a) The purpose of this Act is to provide for the regulation of the withdrawal of groundwater within the district created by this Act to prevent subsidence that contributes to or precipitates flooding, inundation, or overflow of areas within the district, including rising waters resulting from storms or hurricanes.

(b) It is the intent of the legislature that the district created by this Act shall administer and enforce the terms of this Act and shall exercise its rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of this Act.

SECTION 2. DEFINITIONS. In this Act:

(1) "Person" includes a corporation, individual, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, or association, and any other legal entity.

(2) "District" means the Fort Bend Subsidence District.

(3) "Board" means the board of directors of the Fort

1 Bend Subsidence District.

2 (4) "Groundwater" means water existing below the
3 earth's surface within the district, but does not include water
4 produced with oil in the production of oil and gas.

5 (5) "Well" means a facility, device, or method used to
6 withdraw groundwater.

7 (6) "Withdraw" means the act of extracting groundwater
8 by pumping or some other method.

9 (7) "Drill" means drilling, equipping, or completing
10 wells or substantially altering the size of wells or well pumps.

11 (8) "Subsidence" means the lowering in elevation of
12 the surface of land by the withdrawal of groundwater.

13 (9) "Commission" means the Texas Water Commission.

14 SECTION 3. CREATION. Under Article XVI, Section 59, of the
15 Texas Constitution, a conservation and reclamation district is
16 created to be known as the Fort Bend Subsidence District. The
17 district is a governmental agency, a political subdivision of the
18 state, and a body politic and corporate.

19 SECTION 4. BOUNDARIES. (a) The district includes all of
20 the territory within Fort Bend County.

21 (b) An adjoining county may be added to the district on
22 application of the commissioners court of the adjoining county and
23 compliance with the applicable provisions of Sections
24 55.730-55.744, Water Code.

25 (c) The proposition on the ballots for an election to add an
26 adjoining county to the district shall be printed to permit voting
27 for or against the proposition: "Addition of _____ County to

1 the Fort Bend Subsidence District."

2 (d) A county added to the district under this section is
3 subject to the jurisdiction of the board and this Act.

4 SECTION 5. BOARD OF DIRECTORS. (a) The district is
5 governed by a board of 13 directors.

6 (b) One director from each of the following cities in Fort
7 Bend County shall be appointed by the mayor of the respective city:

8 (1) Houston;

9 (2) Missouri City;

10 (3) Stafford;

11 (4) Sugar Land;

12 (5) Rosenberg; and

13 (6) Richmond.

14 (c) The Commissioners Court of Fort Bend County shall
15 appoint two directors who represent agricultural interests and live
16 in an unincorporated area, two directors who represent industrial
17 interests, and two directors who represent business interests.

18 (d) One director shall be appointed by the mayors of the
19 incorporated cities within the county not listed in Subsection (b)
20 of this section.

21 (e) If an adjoining county is added to the district, four
22 members shall be added to the board. Two members shall be chosen
23 by the commissioners court of the county added to the district.
24 One member each shall be chosen by the mayors of the two cities in
25 the county added to the district that have the largest populations
26 according to the most recent federal decennial census. The four
27 new members shall draw lots to establish staggered terms of office.

1 (f) All directors must be residents of and qualified voters
2 in the district.

3 (g) The county judge of Fort Bend County shall set a date,
4 time, and place for a meeting of the persons designated in
5 Subsections (b), (c), and (d) of this section to choose the initial
6 directors. The county judge shall choose a date not later than the
7 30th day after the effective date of this Act. The county judge
8 shall mail notices of the meeting to the persons designated to
9 choose the directors. The county judge shall appoint a person to
10 preside at the meeting. The directors chosen at the meeting shall
11 assume their positions not later than the fifth day after the date
12 of the meeting.

13 (h) Selection of subsequent directors shall be made on the
14 second Monday in January at 11 a.m. in the district's main office.
15 Not later than the 20th day before the date of the meeting, the
16 district shall mail notice of the meeting to the persons designated
17 in Subsections (b), (c), (d), and (e) of this section to choose
18 directors.

19 (i) The terms of office for the initial directors shall be
20 as follows:

21 (1) five members chosen under Subsection (b) of this
22 section and four members chosen under Subsection (c) of this
23 section shall serve for terms expiring January 31, 1991; and

24 (2) one member chosen under Subsection (b) of this
25 section, two members chosen under Subsection (c) of this section,
26 and the member chosen under Subsection (d) of this section shall
27 serve for terms expiring January 31, 1990.

1 (j) Except as provided by Subsection (i) of this section,
2 members of the board shall serve for terms of two years.

3 (k) At the time the county judge of Fort Bend County sets
4 the meeting required by Subsection (g) of this section, the county
5 judge shall set the date, time, and place for the initial meeting
6 of the board. Not later than the 20th day before the date of the
7 initial meeting of the board, the county judge shall mail notices
8 of the meeting to the initial directors.

9 (l) At the initial meeting of the board and each year at the
10 first meeting after new directors take office, the directors shall
11 select a chairman, a vice-chairman, and a secretary. The chairman,
12 vice-chairman, and secretary shall serve at the pleasure of the
13 board and may be removed and replaced by a majority of the board at
14 any time.

15 (m) The chairman shall preside over meetings of the board.
16 If the chairman is not present, the vice-chairman shall preside.

17 (n) Each director is entitled to receive \$50 a day for each
18 day he is engaged in the exercise of his duties under this Act and
19 necessary travel and other expenses incurred in the exercise of his
20 duties under this Act. A member of the board may not receive
21 compensation and travel and other expenses for more than 120 days
22 in any one calendar year.

23 (o) If a vacancy occurs on the board, the person or persons
24 designated in Subsection (b), (c), (d), or (e) of this section to
25 appoint a director for the position that is vacated shall appoint a
26 director to serve the unexpired term.

27 (p) Each director shall take the oath of office prescribed

1 by law for county commissioners and shall execute a bond in the
2 amount of \$5,000, payable to the district, conditioned on the
3 faithful performance of his duties. The district shall pay for the
4 bond.

5 (q) A majority of the directors constitute a quorum for
6 transaction of business of the district. An official act of the
7 board is not valid without the affirmative vote of a majority of
8 the directors.

9 (r) The board shall hold one regular meeting each month at a
10 time set by the board. The board may hold special meetings at the
11 call of the chairman or on the written request of at least three
12 directors.

13 SECTION 6. POWERS AND DUTIES IN GENERAL. (a) The board
14 shall administer this Act as provided by Section 1 of this Act.

15 (b) Withdrawals of groundwater covered by this Act are
16 subject to reasonable rules, regulations, and orders adopted by the
17 board.

18 (c) In adopting rules, regulations, and orders, the board
19 shall consider the following factors:

- 20 (1) availability of surface water;
21 (2) economic impact on persons and the community;
22 (3) degree and effect of subsidence on the surface of
23 the land; and
24 (4) differing topographical and geophysical
25 characteristics of the land.

26 (d) The board has all other powers necessary or convenient
27 to carry out its responsibilities and achieve the purpose of this

1 Act.

2 SECTION 7. GENERAL MANAGER. (a) The board shall employ a
3 general manager who shall be the chief administrative officer of
4 the district. The board may delegate to the general manager the
5 authority to manage and operate the affairs of the district subject
6 only to orders of the board.

7 (b) The duties of the general manager include:

8 (1) administration of the orders of the board;

9 (2) coordination with state, federal, and local
10 agencies;

11 (3) supervision of the development of plans and
12 programs of the district;

13 (4) preparation and submission of the annual budget to
14 the board; and

15 (5) other duties assigned by the board.

16 (c) The general manager shall execute a bond in an amount
17 determined by the board, payable to the district, conditioned on
18 the faithful performance of his duties. The district shall pay for
19 the bond.

20 (d) The district may contract with any person to perform the
21 duties of general manager.

22 SECTION 8. EMPLOYEES. (a) The board shall employ personnel
23 necessary for the proper handling of the business and operation of
24 the district and may employ attorneys, bookkeepers, engineers, and
25 other expert and specialized personnel that are considered
26 necessary. The board shall determine the compensation to be paid
27 by the district to the employees.

1 (b) The board shall determine the term of office of and the
2 compensation to be paid to the general manager. The board may
3 discharge the general manager by a majority vote. The board may
4 discharge employees of the district.

5 (c) The board shall require an employee who collects, pays,
6 or handles funds of the district to furnish good and sufficient
7 bond, payable to the district, for a sufficient amount to safeguard
8 the district. The bond shall be conditioned on the faithful
9 performance of the employee's duties and on accounting for all
10 funds and property of the district under the employee's control.
11 The district shall pay for the bond.

12 SECTION 9. DISTRICT OFFICE. The board shall maintain its
13 principal office for conducting the business of the district. The
14 office must be located inside the district.

15 SECTION 10. MINUTES AND RECORDS OF DISTRICT. The district
16 shall keep a true and complete account of the board's meetings and
17 proceedings and shall preserve the board's minutes, contracts,
18 records, notices, accounts, and receipts in a fireproof vault or
19 safe. The board's minutes, contracts, records, notices, accounts,
20 and receipts are the property of the district and are subject to
21 public inspection.

22 SECTION 11. SUITS. The district may sue and be sued in the
23 courts of this state in the name of the district by and through the
24 board. If requested by the district, the attorney general shall
25 represent the district in the district and appellate courts of this
26 state and in the courts of the United States. The board, in its
27 sole discretion, may employ attorneys to represent the district in

1 the district and appellate courts of this state and in the courts
2 of the United States. All courts shall take judicial notice of the
3 creation of the district and of its boundaries.

4 SECTION 12. SEAL. The board shall adopt a seal.

5 SECTION 13. RULES AND REGULATIONS. (a) After notice and
6 hearing under Section 14 of this Act, the board shall adopt and
7 enforce rules and regulations that are designed to expeditiously
8 and effectively accomplish the provisions and purposes of this Act,
9 including rules governing procedure before the board.

10 (b) The board shall compile its rules and regulations in a
11 book and make the book available for use and inspection at the
12 district's principal office. The district shall provide copies of
13 its rules and regulations on payment of the cost of reproduction.

14 SECTION 14. HEARINGS. (a) At regular meetings of the
15 board, the board shall set the dates, times, and locations for
16 hearings to be held under this Act.

17 (b) Not later than the 20th day before the date set for a
18 hearing, the district shall deliver or mail notice of the hearing
19 under this section to each county and municipal government within
20 the district and to each person that the board believes has an
21 interest in the subject matter to be dealt with at the hearing.

22 (c) Not later than the 20th day before the date set for a
23 hearing, the district shall publish notice of the hearing under
24 this section once in a newspaper of general circulation in each
25 county within the district.

26 (d) Not later than the 20th day before the date set for a
27 hearing, the district shall post the notice of the hearing under

1 this section at the county courthouse of each county within the
2 district in the place where notices are usually posted.

3 (e) Any person who desires to appear at a hearing and
4 present testimony, evidence, exhibits, or other information may do
5 so in person, by counsel, or both.

6 (f) The board may hold hearings at any location within the
7 district.

8 (g) The board may recess a hearing from day to day.

9 (h) The board may use hearing examiners to hear any subject
10 set for the hearing. Procedures for use of hearing examiners shall
11 be provided in the rules and regulations.

12 SECTION 15. COMPELLING TESTIMONY, SWEARING WITNESSES, AND
13 SUBPOENAS. The board may subpoena a person to testify if the
14 person's testimony is necessary to carry out the powers, duties,
15 and functions of the board under this Act. The board may
16 administer oaths to persons who testify before the board. The
17 board may subpoena documents if the documents are necessary to
18 carry out the powers, duties, and functions of the board under this
19 Act. On application of the board, a district court shall enforce
20 the subpoena in the same manner as a subpoena issued by the court.

21 SECTION 16. DISTRICT PLAN. (a) Under Section 14 of this
22 Act, the board shall formulate a plan to control and prevent
23 subsidence within the district. The plan shall accomplish this
24 purpose by the regulation of groundwater withdrawals to maintain
25 sufficient artesian pressure to control and prevent subsidence.

26 (b) The plan shall specify, in as much detail as
27 practicable, the acts, procedures, performance, and avoidance that

1 are necessary to carry out the purposes of this Act.

2 (c) When formulating the plan, the board shall compile and
3 consider:

4 (1) a list of wells in the district that will be
5 subject to regulation under this Act;

6 (2) an accurate estimate of groundwater production
7 from each well or proposed well in the district;

8 (3) an accurate estimate of the amount of groundwater
9 that may be produced from each well and each area in the district
10 without causing drawdown of the water table and reduction of
11 artesian pressure that will lead to subsidence within the district;

12 (4) an accurate estimate of the current and future
13 water needs of each well owner in the district;

14 (5) an accurate estimate of the groundwater production
15 capacity of each well in the district;

16 (6) a list of all available sources of water in the
17 district other than groundwater;

18 (7) the purpose for which the water is currently used
19 and for which it is proposed to be used in the future;

20 (8) information relating to formulation of a permit
21 system; and

22 (9) other information necessary to carry out the
23 management of groundwater in the district and to effectively and
24 expeditiously accomplish the purposes of this Act.

25 (d) The plan shall be formulated not later than 12 months
26 after the effective date of this Act.

27 (e) Not later than the 60th day after the date the plan is

1 formulated, the board shall review and adopt the plan.

2 (f) Before the plan is adopted, the board shall hold a
3 hearing under Section 14 of this Act to consider the proposed plan.

4 (g) After the hearing, the board shall make any changes it
5 considers necessary based on evidence and material presented at the
6 hearing and shall adopt the plan.

7 (h) The plan adopted under this section may be amended or
8 repealed. A new plan may be adopted in the manner provided in this
9 section for the adoption of the original plan. A plan, once
10 adopted, shall remain in effect until the adoption of a new plan.

11 SECTION 17. TEMPORARY REGULATION. During the period that
12 the board is formulating and adopting the plan under Section 16 of
13 this Act, the board shall adopt temporary rules and regulations
14 relating to the withdrawal of groundwater that are necessary to
15 control subsidence.

16 SECTION 18. PERMIT REQUIREMENT. (a) The owner of a well
17 located in the district must obtain a permit from the board to
18 withdraw groundwater.

19 (b) Owners of wells operating or being drilled on the
20 effective date of this Act must apply for a permit before January
21 1, 1990, and may continue to operate the well without a permit
22 until the application for a permit for the well is acted on by the
23 board.

24 (c) A permit issued under this Act is valid for a term of
25 one year from the date it is issued unless a longer or shorter term
26 is specified by the board. The board may issue a permit for a term
27 not to exceed five years in order to aid the district in the

1 effective and expeditious performance of its duties if issuance of
2 the permit does not impair the ability of the district to control
3 and prevent subsidence within the district.

4 (d) A permit may be revoked, suspended, modified, or amended
5 after notice and public hearing under Section 14 of this Act
6 whenever reasonably necessary to accomplish the purposes of this
7 Act.

8 (e) Permits may be renewed in the same manner as permits are
9 issued.

10 (f) To obtain a permit, a person must submit an application
11 and an application fee to the board. The application must state:

12 (1) the person's name;
13 (2) the person's address;
14 (3) the location and wellhead elevation of the well or
15 proposed well;

16 (4) the amount of water being produced or proposed to
17 be produced; and

18 (5) any other information required by the board as
19 necessary for the board to control and prevent subsidence in the
20 district.

21 (g) The board shall use the application fee to process
22 applications.

23 SECTION 19. NOTICE AND HEARING ON PERMIT. (a) The board
24 shall hold a hearing on each application.

25 (b) Not later than the 20th day before the date set for the
26 hearing, the board shall notify the applicant by certified mail,
27 return receipt requested, of the date, time, and location of the

1 hearing.

2 (c) Except as provided by this section, the hearing shall be
3 conducted and notice of hearing given under Section 14 of this Act.

4 (d) The board may consider as many applications for permits
5 as it considers necessary at a hearing.

6 SECTION 20. ISSUANCE OF PERMIT. (a) Not later than the
7 35th day after the date of the hearing, the board shall decide
8 whether or not to issue a permit and shall formulate the terms of
9 the permit, if issued.

10 (b) In deciding whether or not to issue a permit and in
11 setting the terms of the permit, the board shall consider:

12 (1) the purpose of this Act;

13 (2) the district plan;

14 (3) the quality, quantity, and availability of surface
15 water at prices competitive with those charged by suppliers of
16 surface water within the district; and

17 (4) the economic impact on the applicant of granting
18 or denying the permit or of the terms prescribed by a permit in
19 relation to the effect on subsidence that would result.

20 (c) The board shall grant a permit to an applicant whenever
21 the board finds on sufficient evidence that:

22 (1) there is no other adequate and available
23 substitute or supplemental source of surface water at prices
24 competitive with those charged by suppliers of surface water within
25 the district; and

26 (2) compliance with any provision of this Act, or any
27 rule or regulation of the district, will result in an arbitrary

1 taking of property or in the practical closing and elimination of
2 any lawful business, occupation, or activity, without sufficient
3 corresponding benefit or advantage to the people.

4 (d) If the board decides to issue the permit, the permit
5 must state the terms prescribed by the board.

6 (e) The permit must include the following:

7 (1) the name and address of the permittee;

8 (2) the location of the well;

9 (3) the date the permit begins and the date the permit
10 expires;

11 (4) conditions and restrictions placed on the
12 withdrawal of groundwater;

13 (5) adoption of water conservation measures for the
14 purpose of preventing waste of groundwater, including educational
15 programs; and

16 (6) any other terms and conditions necessary to
17 control and prevent subsidence.

18 SECTION 21. PERMIT NOT TRANSFERABLE. A permit issued under
19 this Act is not transferable unless the permittee and new owner
20 notify the district by certified mail, return receipt requested, of
21 the transfer of ownership of the well and provide the name and
22 address of the new owner. On receipt of that information, the
23 district shall issue an amended permit with the new owner of the
24 well as permittee. The remaining terms of the permit shall remain
25 unchanged.

26 SECTION 22. ANNUAL REPORTS. Before January 31 of each year,
27 each owner of a well who holds a permit under this Act shall submit

1 a report to the board stating the following:

2 (1) the person's name;

3 (2) the location of the well;

4 (3) the total amount of groundwater produced by the
5 well during the immediately preceding 12-month period;

6 (4) the total amount of groundwater produced by the
7 well during each separate month of the immediately preceding
8 12-month period;

9 (5) the purpose for which the groundwater was used;

10 (6) the date the permit expires; and

11 (7) any other information required by the board as
12 necessary for the board to control and prevent subsidence within
13 the district.

14 SECTION 23. BOARD INVESTIGATIONS. At least once each year
15 and at any other time that the board considers necessary, the board
16 may have its staff make a complete study of the groundwater
17 situation within the district and determine the water level, rates
18 of withdrawal, amounts of withdrawal, and other information
19 relating to the withdrawal of groundwater that may affect the
20 subsidence of land within the district.

21 SECTION 24. ANNUAL GROUNDWATER WITHDRAWAL DETERMINATION.

22 (a) Before March 31 of each year, the board shall hold a hearing
23 under Section 14 of this Act to determine the effects during the
24 preceding calendar year of groundwater withdrawal on the subsidence
25 of land within the district.

26 (b) At the hearing, the board shall consider the annual
27 reports submitted under Section 22 of this Act and the

1 investigation made under Section 23 of this Act in addition to
2 information represented by persons appearing before the board.

3 (c) After the hearing, the board shall consider all the
4 information presented to it and shall determine the groundwater
5 withdrawal in the district during the preceding calendar year and
6 shall make findings of the effects of groundwater withdrawal during
7 that year on the subsidence of land within the district. A report
8 of the board's findings and determinations shall be made available
9 for examination by any interested person.

10 SECTION 25. REGULATION OF SPACING AND PRODUCTION. (a) In
11 order to minimize as far as practicable the drawdown of the water
12 table and reduction of artesian pressure and to control and prevent
13 subsidence, the board may provide for the spacing of wells and
14 regulate the production of groundwater from the wells, taking into
15 consideration any relevant factors, including the economic impact
16 on well owners and the resulting effect on subsidence.

17 (b) Before issuing any rule, regulation, or order under this
18 section, the board shall set a hearing on the proposed rule,
19 regulation, or order and issue notice of the hearing. Notice must
20 be given and hearings conducted in the manner provided in Section
21 14 of this Act.

22 SECTION 26. REQUIRING WATER-METERING DEVICES. The board may
23 adopt orders after notice and hearing under Section 14 of this Act
24 requiring water-metering devices to be placed on wells.

25 SECTION 27. ACCESS TO PROPERTY. (a) To carry out technical
26 and other investigations necessary to the implementation of this
27 Act, the board and its agents and employees are entitled to access

1 to all property within the district.

2 (b) Before entering property for the purposes stated in
3 Subsection (a) of this section, the person seeking access shall
4 give notice to the owner of the property in the manner provided by
5 the rules and regulations of the district and shall present proper
6 credentials.

7 (c) The board, and its agents and employees who enter
8 private property, shall observe the establishment's rules and
9 regulations concerning safety, internal security, and fire
10 protection.

11 SECTION 28. MONITORING AND SUPERVISIONS OF DISTRICT. The
12 district may use subsidence compaction monitors, water level
13 observation wells, and other materials and equipment to determine
14 the amount of groundwater that may be produced while allowing the
15 rebound and stabilization of groundwater to a level that will halt
16 subsidence.

17 SECTION 29. RESEARCH AND STUDIES. The board may conduct
18 studies and research that it considers necessary to implement this
19 Act. The board may use the services of geologists, hydrologists,
20 registered professional engineers, or other expert personnel to
21 accomplish the purposes of this section.

22 SECTION 30. COOPERATION WITH AND ASSISTANCE OF OTHER
23 GOVERNMENTAL ENTITIES. The board may cooperate with and request
24 the assistance of the Texas Water Development Board, the
25 commission, the United States Geological Survey, local governments,
26 and other agencies of the United States and the State of Texas in
27 implementing this Act.

1 SECTION 31. CONTRACTS. The board may enter into contracts
2 with any person to carry out this Act.

3 SECTION 32. APPEAL OF DISTRICT ACTIONS TO A DISTRICT COURT.

4 (a) A person who is adversely affected by a rule, regulation,
5 order, or other official action of the board may appeal to a
6 district court in any county in the district.

7 (b) For the purposes of this section, "a person who is
8 adversely affected" includes a person residing in or owning real
9 property in the district whose residence or real property is
10 subsiding. An appeal under this section must be filed not later
11 than the 45th day after the date the rule, regulation, order, or
12 other official action appealed from is promulgated.

13 (c) On written request of a person who is adversely
14 affected, the board shall make written findings and conclusions
15 with respect to a rule, regulation, order, or other official action
16 of the district. Not later than the 35th day after the request was
17 made, the board shall provide a certified copy of the findings and
18 conclusions to the person who made the request.

19 (d) In appeals taken under this section, the substantial
20 evidence rule shall be used to determine the legal propriety of a
21 rule, regulation, order, or other action of the board.

22 SECTION 33. APPEAL OF CERTAIN DISTRICT ACTIONS TO THE
23 COMMISSION. (a) As an alternative to the appeal provided by
24 Section 32 of this Act, a person who is granted a permit
25 authorizing withdrawal of groundwater in an amount less than
26 requested by that person may appeal the board's final decision to
27 the commission. The appeal shall be filed not later than the 60th

1 day after the date of the final order of the board.

2 (b) On written request of the person proposing to appeal an
3 order under Subsection (a) of this section, the board shall make
4 written findings and conclusions with respect to the order and
5 shall provide certified copies of the findings and conclusions to
6 the person making the request not later than the 35th day after the
7 date on which the written request is submitted to the board.

8 (c) The effect of a board order is stayed until the decision
9 of the commission in an appeal under this section is final.

10 (d) The review on appeal to the commission under this
11 section is governed by the substantial evidence rule as provided by
12 Section 19(e), Administrative Procedure and Texas Register Act
13 (Article 6252-13a, Vernon's Texas Civil Statutes).

14 (e) The commission may adopt necessary rules to carry out
15 the provisions of this section.

16 (f) An appeal from a final decision of the commission is to
17 a district court in Travis County and is governed by the
18 substantial evidence rule. Any party to the proceedings before the
19 commission may appeal a decision of the district court in the
20 manner provided for other civil actions, but a party appealing a
21 decision of a district court is not required to provide an appeal
22 bond.

23 (g) Under this section, the commission may adopt and assess
24 reasonable and necessary fees adequate to recover the costs of the
25 commission in administering this section.

26 SECTION 34. PERMIT FEE. (a) At the time a permit is issued
27 or renewed, the board shall collect from the permittee a permit

1 fee, established by schedule, based on the term of the permit and
2 the maximum amount of groundwater authorized by the board to be
3 withdrawn annually from the well.

4 (b) The fee schedule shall be determined by the board after
5 a hearing under Section 14 of this Act.

6 (c) The board shall use the funds obtained from permit fees
7 to cover the costs of issuing permits and performing other
8 functions under this Act.

9 SECTION 35. GRANTS, PURCHASES, GIFTS, LEASES, ETC. On
10 behalf of the district, the board may:

11 (1) purchase, lease, own, convey, and dispose of
12 property both inside and outside the district necessary or
13 convenient to the exercise of the powers, duties, and functions of
14 the board under this Act;

15 (2) accept grants, gifts, and devises of property;

16 (3) construct, purchase, lease, or acquire in some
17 other manner any material or property necessary to carry out this
18 Act; and

19 (4) accept gifts, grants, loans, or other
20 distributions of money.

21 SECTION 36. OWNERSHIP OF GROUNDWATER. The ownership and
22 rights of the owner of land and his lessees and assigns in
23 groundwater are recognized and nothing in this Act shall be
24 construed as depriving or divesting the owner or his lessees and
25 assigns of the ownership or rights, subject to rules and
26 regulations and orders and other official actions of the district.

27 SECTION 37. SURFACE WATER LAWS NOT APPLICABLE. The laws and

1 administrative rules relating to the use of surface water do not
2 apply to groundwater.

3 SECTION 38. SALE AND DISTRIBUTION OF WATER PROHIBITED. The
4 district may not sell or distribute surface water or groundwater
5 for any purpose.

6 SECTION 39. EXCLUSIONS. This Act does not apply to:

7 (1) wells regulated under Chapter 27, Water Code;

8 (2) shallow wells producing water solely to prevent
9 hazardous sand boils, dewater surface construction sites, or
10 relieve hydrostatic uplift on permanent structures and not used to
11 provide water for human consumption, agricultural use,
12 manufacturing or industrial use, or water injection;

13 (3) persons owning only one well within the district
14 if the well has a casing with an inside diameter of five inches or
15 less; and

16 (4) on application for an exemption on a form
17 prescribed by the board, other wells with a casing that has an
18 inside diameter of five inches or less that serve a single-family
19 dwelling and have a negligible effect on subsidence within the
20 district.

21 SECTION 40. DISBURSEMENT OF FUNDS. The district's money may
22 be disbursed by check, draft, order, or other instruments, signed
23 by the person or persons authorized to do so by the board's bylaws
24 or by resolution of the board.

25 SECTION 41. ACCOUNTS AND INDEPENDENT AUDIT. (a) The
26 district shall keep a complete system of accounts and shall have
27 its affairs audited each year by an independent certified public

1 accountant or a firm of independent certified public accountants of
2 recognized integrity and ability. The district shall pay for the
3 audit.

4 (b) The board shall deliver a copy of the audit to the
5 commissioners court of each county in the district. The board
6 shall keep one copy of the audit at the district office, open to
7 inspection by any interested person during normal office hours.

8 SECTION 42. DEPOSITORY BANKS. (a) The board shall
9 designate one or more banks within the district to serve as
10 depository for the funds of the district. Except as provided by
11 Subsection (b) of this section, all funds of the district shall be
12 deposited in a depository bank.

13 (b) To the extent provided in a trust indenture, bond
14 proceeds and funds pledged to pay bonds may be deposited with the
15 trustee bank named in the trust indenture and shall be remitted to
16 the bank of payment for the payment of the principal of and
17 interest on the bonds.

18 (c) To the extent that funds in a depository bank or a
19 trustee bank are not invested or insured by the Federal Deposit
20 Insurance Corporation, they shall be secured in the manner provided
21 by law for the security of county funds.

22 (d) Before designating a depository bank, the board shall
23 issue a notice stating the time and place the board will meet for
24 that purpose and shall invite the banks in the district to submit
25 applications to be designated depositories. The term of service
26 for depositories shall be prescribed by the board. The board shall
27 publish the notice once in a newspaper of general circulation in

1 the district or mail a copy of the notice to each bank in the
2 district.

3 (e) The board shall consider the management and condition of
4 the banks that apply and shall designate as depositories the bank
5 or banks that offer the most favorable terms and conditions for
6 handling of the funds of the district and that the board finds have
7 proper management and are in condition to warrant handling of
8 district funds.

9 (f) Membership on the board of an officer or director of a
10 bank does not disqualify the bank from being designated as
11 depository.

12 (g) If no applications are received before the meeting, the
13 board shall designate a bank or banks within or outside the
14 district on terms and conditions it finds advantageous to the
15 district.

16 SECTION 43. PENALTIES. (a) If a person has violated, is
17 violating, or is threatening to violate a provision of this Act or
18 a rule, regulation, permit, or other order of the district, the
19 district may bring a civil action in a district court within the
20 district for an injunction to restrain the person from continuing
21 the violation or the threat of violation, for a civil penalty of
22 not less than \$50 nor more than \$5,000 for each violation and for
23 each day of violation, or for both injunctive relief and civil
24 penalty.

25 (b) At the request of the district, or the general manager
26 authorized by the board, the attorney general shall institute the
27 action. However, the district in its sole discretion may employ

1 attorneys of its choice to institute the action.

2 (c) The board is not required to post bond or other security
3 with the court under this section.

4 (d) On application for injunctive relief and a finding that
5 a person is violating or threatening to violate any provision of
6 this Act or any rule, permit, or other order of the district, the
7 district court shall grant any injunctive relief the facts may
8 warrant.

9 SECTION 44. LEGISLATIVE FINDING OF AUTHORITY. The
10 legislature finds that the requirements of Article XVI, Sections
11 59(d) and (e), of the Texas Constitution have been performed and
12 accomplished and that the legislature has the power and authority
13 to enact this Act.

14 SECTION 45. EMERGENCY. The importance of this legislation
15 and the crowded condition of the calendars in both houses create an
16 emergency and an imperative public necessity that the
17 constitutional rule requiring bills to be read on three several
18 days in each house be suspended, and this rule is hereby suspended,
19 and that this Act take effect and be in force from and after its
20 passage, and it is so enacted.

COMMITTEE AMENDMENT NO. 1

Amend H.B. 2819 as follows:

(1) On page 7, line 2 strike "shall" and substitute "may"

(2) On page 10, line 22 strike "prevent" and substitute
"mitigate"

(3) On page 10, line 25 strike "prevent" and substitute
"mitigate"

(4) On page 11, line 10 strike "drawdown of the water table"
and substitute "long term static water level decline"

Willy

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

4-19-89
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES,

to whom was referred HB 2819 have had the same under consideration and beg to report
(measure)
back with the recommendation that it

() do pass, without amendment.

(X) do pass, with amendment(1).

() do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. () yes (x) no

An actuarial analysis was requested. () yes (x) no

An author's fiscal statement was requested. (X) yes () no

A criminal justice policy impact statement was prepared. () yes (X) no

A water development policy impact statement was requested. (x) yes () no

() The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the () Local, () Consent, or () Resolutions Calendar.

This measure (x) proposes new law. () amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Smith, T., Ch.	x			
Willy, V.C.	x			
Collazo, C.B.O.				x
Culberson	x			
Holzheuser	x			
Junell	x			
Swift	x			
Wentworth	x			
Yost	x			

Total

8 aye

0 nay

0 present, not voting

1 absent

T. Wall
CHAIRMAN

Deborah K. Wall
COMMITTEE COORDINATOR

BILL ANALYSIS

Background

It is believed that creation of the district would be of benefit to the residents of the area.

Purpose of the Bill

This bill creates the Fort Bend Subsidence District and provides for its powers.

Section by Section Analysis

Section 1. Statement of purpose.

Section 2. Definitions.

Section 3. Creates the district.

Section 4. Establishes the boundaries of the district as coterminus with those of Fort Bend County; provides for the addition of other counties.

Section 5. Provides for the composition of the board of directors, and for the qualifications, terms of office, duties and procedures to be followed by members of the board.

Section 6. Provides for the general powers of the district to make rules governing withdrawals of groundwater, sets forth factors to consider in adopting rules.

Section 7. Provides for the employment of a general manager.

Section 8. Provides for the employment of necessary personnel.

Section 9. Requires the board maintain its principal office within the district.

Section 10. Requires the keeping of records and minutes; allows public inspection.

Section 11. Allows the district to participate in suits.

Section 12. Requires the adoption of a seal.

Section 13. Charges the board to adopt and enforce rules to accomplish the purposes of this Act following appropriate hearings. Requires the rules be available to the public.

Section 14. Provides for the publication of notice and holding of hearings.

Section 15. Gives the board power to subpoena witnesses and hear sworn testimony.

Section 16. Charges the board with formulating a plan to control and prevent subsidence, provides for the formulation of the plan.

Section 17. Provides for the adoption of temporary rules while the board is formulating the plan.

Section 18. Requires permits for groundwater withdrawals, provides for permitting existing wells, and for the duration, revocation or amendment, renewal, and application to obtain permits. Provides for application fees.

Section 19. Provides for notification of applicants and the holding of hearings on each permit application.

Section 20. Requires a decision by the board on a permit application within 35 days of the hearing, sets forth factors to be considered in the decision, and the terms of permits issued.

Section 21. Provides that permits are not transferable without notice to the district.

Section 22. Requires an annual report of groundwater use by each permittee.

Section 23. Provides for annual study of the groundwater situation in the district.

Section 24. Provides for annual hearings to consider groundwater use reports filed by permittees and to determine groundwater withdrawal and its effects.

Section 25. Allows regulation of spacing and production from wells after appropriate notice and hearing.

Section 26. Allows rules requiring meters on wells, after appropriate notice and hearing.

Section 27. Allows access to property for the purpose of investigations.

Section 28. Allows the use of certain equipment and facilities to monitor and supervise groundwater withdrawals.

Section 29. Allows use of professional services by the district in conducting necessary studies and research.

Section 30. Allows cooperation with other governmental entities.

Section 31. Provides contracting authority to the district.

Section 32. Sets forth procedures for appeals to the district court of decisions of the board.

Section 33. Provides for the option of appeal to the Texas Water Commission for certain decisions of the board; sets forth procedures for such appeals.

Section 34. Provides for the collection of permit fees, and for the establishment of a fee schedule.

Section 35. Provides for the boards' authority to purchase or dispose of property and to accept gifts or grants.

Section 36. States that this Act is not to be construed as a taking of rights of ownership.

Section 37. States that surface water laws do not apply to groundwater.

Section 38. Prohibits the district from selling water.

Section 39. Excludes certain wells from regulation, including wells regulated under Chapter 27, Water Code; shallow wells constructed for purposes of drainage or relief of hydrostatic uplift, and single wells of less than five inches diameter.

Section 40. Provides for the methods of disbursement of district funds.

Section 41. Provides for the keeping of accounts and annual audit of district finances.

Section 42. Provides for the deposit, investment, and security of district funds.

Section 43. Allows the district to seek injunctions or civil penalties for violations.

Section 44. Legislative finding of compliance with notice requirements.

Section 45. Emergency clause.

Rulemaking Authority

This bill delegates authority to the Texas Water Commission to adopt rules regarding appeals of orders of the district board in Section 33(e) of this Act.

Summary of Committee Action

The posting rules were suspended in order to take up HB 2819 in public hearing on April 19, 1989. Representative Tallas introduced his bill, and proposed the following amendments: (1) On page 7, line 2 strike "shall" and substitute "may", allowing the district discretion over employment of a general manager; Amendments 2 through 4 clarify language used in the bill as follows: (2) on page 10, line 22 strike "prevent" and substitute "mitigate"; (3) on page 10, line 25 strike "prevent" and substitute "mitigate"; (4) on page 11, line 10 strike "drawdown of the water table" and substitute "long term static water level decline". R. L. O'Shieles, Bob Lutts, and Daniel Gerken, representing the Fort Bend County Commissioners and the proposed district, registered their support of the bill for the record but did not testify. The amendments were adopted and the motion to report the bill favorably, as amended, carried with a vote of 8 ayes, 0 nays, 0 PNV, and 1 absent.



State of Texas
House of Representatives
Austin

JIM TALLAS
STATE REPRESENTATIVE
P.O. Box 2910
Austin, Texas 78768-2910
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#1 Sugar Creek Center Blvd.
Suite 990
Sugar Land, Texas 77478
(713) 242-8500

April 19, 1989

The Honorable Terral Smith
Chairman, Committee on Natural Resources
House of Representatives
Austin, Texas

Dear Mr. Chairman:

In response to your request for an Author's Fiscal Statement on HB 2819 relating to the creation, powers, duties, administration and operations of the Fort Bend County Subsidence District, I have determined the following:

The costs to local governments for the creation of this district appear to be minimal. Each of the member cities may incur slight administrative costs for processing the mayoral appointments to the board of directors.

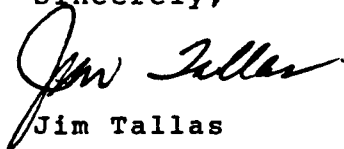
The costs to the district of developing a management plan, adopting temporary rules and conducting hearings will be financed by permit fees, as well the ongoing operating costs of the districts.

FISCAL YEAR PROJECTIONS

1990...Minimal
1991...same as 1990 anticipated
1992...same as 1990 anticipated

Please let me know if I can provide further information to you.

Sincerely,


Jim Tallas

JT/rc

5

COMMITTEES: State Affairs, Chairman of
Budget and Oversight
Appropriations
Calendars

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner



Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

April 19, 1989

The Honorable William P. Clements, Jr.
Governor of Texas

The Honorable William P. Hobby
Lieutenant Governor and President of the Senate

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution.

Bill No. (H.B. 2819) - Proposed creation of a conservation and reclamation district pursuant to Article III, S52 and Article XVI, S59(d), Texas Constitution: Fort Bend Subsidence District

Dear Governor Clements:

The following attachment is submitted in response to the above-referenced constitutional requirements. Items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,


Allen P. Beinke
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King, Secretary of the Senate
Representative Terral Smith, Chairman,
House Natural Resources Committee
Speaker of the House Gib Lewis, House of Representatives
Senator H. Tati Santiesteban, Chairman,
Senate Natural Resources Committee
Senator Bill Sims, State Senate
Representative Jim Tallas, House of Representatives

6

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner



Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

April 19, 1989

The Honorable Gib Lewis
Speaker of the House of Representatives
P.O. Box 2910
Austin, Texas 78769

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Sec. 36.

Bill No. (H.B. 2819) - Proposed creation of a conservation and reclamation district pursuant to Article III, S52 and Article XVI, S59(d), Texas Constitution: Fort Bend Subsidence District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments on items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

A handwritten signature in cursive script that reads "Allen Beinke".

Allen Beinke
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King, Secretary of the Senate
Representative Terral Smith, Chairman,
House Natural Resources Committee
Senator Bill Sims, State Senate
Representative Jim Tallas, House of Representatives

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATED TO THE FORT BEND
SUBSIDENCE DISTRICT

Water Development Policy Impact Statements for House Bill 2819 (H.B. 2819) relating to the creation, administration, powers, duties, operation, and financing of the Fort Bend Subsidence District follow.

Wells located within the limits of this proposed district which covers all of Fort Bend County, utilize the Gulf Coast aquifer. During the period from 1975-1985, excessive water-level declines occurred primarily in the southeastern one-half of the county, with up to 40 feet of water-table decline taking place. During this same time, between 50-100 feet of artesian decline also occurred in the north-central part of the county. Excessive pumpage with its associated water-level declines, triggers land-surface subsidence. This is hydrogeologic justification for the district. The Harris-Galveston Coastal Subsidence District which encompasses all of Harris and Galveston Counties, adjoins the proposed district on the northeast. Fort Bend County lies within a state designated critical area.

H.B. 2819 provides for the regulation of the withdrawal of groundwater within the district to prevent subsidence which contributes to or precipitates flooding, inundation, or overflow of areas, including rising waters resulting from storms or hurricanes. The district shall exercise its rights, powers, and duties in a manner which will effectively and expeditiously accomplish the purpose of the act. The district is proposed to be created under Article XVI, Section 59, of the Texas Constitution and as a conservation and reclamation district. Specific impact statements related to required headings follow:

- 1) **Population projections** - The proposed District is coterminous with the boundaries of Fort Bend County. The Board's current projected

population for Fort Bend County indicates an anticipated increase in population ranging from 154,831 to 208,720 over the next 20 years.

- 2) **District finances** - The district shall collect from a permittee (owner of a well other than specific types which are excluded) a permit fee, established by a schedule set by the board following a hearing, based on the term of the permit (one to five years) and the maximum amount of ground water authorized to be withdrawn annually from the well. Permit fee funds obtained shall be used to cover the costs of issuing permits and performing other district functions. The district may also accept grants, gifts, devises of property (which it may dispose of), and other distributions of money.
- 3) **Board of directors & powers** - This proposed district is to be governed by a board of 13 directors. Six of these are to be composed of one director each from the cities of Houston, Missouri City, Stafford, Sugar Land, Rosenberg, and Richmond who are to be appointed by the mayor of the respective cities. Five of these shall serve terms expiring January 31, 1991. One member's term shall expire January 31, 1990. Two directors representing agricultural interests who live in an unincorporated area, and four directors (two each) will represent industrial and business interests. Four of the six shall serve terms expiring January 31, 1991. The terms of the other two shall expire January 31, 1990. Additionally, one director will be appointed by all of the mayors of the other incorporated cities of the county. Except as provided for the one city member and two agricultural, industrial, or business members whose terms expire in January 31, 1989, the rest shall serve terms of two years. In the event an adjoining county is added to the district, four additional members will be added to the board. Two of these members will be chosen by the commissioners court of the affected county and one member each will be chosen by the mayors of the two cities of the affected county having the largest populations according to the most recent federal decennial census. The four new members shall draw lots to establish staggered two year terms.

Since the bill creates a ground-water subsidence district under Article XVI, Section 59 of the Texas Constitution, and powers relating to Chapters 50, 51, and 52 of the Texas Water Code are not included, its powers are limited to those specifically set out in the bill. The bill requires that the board shall administer this act to provide for the regulation of the withdrawal of ground water within the district to prevent subsidence which contributes to or precipitates flooding, inundation, or overflow of areas, including rising waters resulting from storms or hurricanes. The district shall administer and enforce the terms of this act and shall exercise its rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of the act. Specifically, the district shall control the withdrawals of ground water with reasonable rules, regulations, and orders. These shall consider: 1) availability of surface water, 2) the economic impact on the community, 3) the degree and effect of subsidence on the surface of the land, 4) differing topographical and geophysical characteristics of the land, and 5) the board has all other powers necessary or convenient to carry out its responsibilities and achieve the act's purposes.

The district may sue and be sued in the courts in the name of the district by and through the board. The board may employ attorneys to represent the district in district and appellate courts of the state and in the courts of the United States. The district may hold hearings to receive testimony, evidence, exhibits, and other information. The board has the power to subpoena a person or documents and to enforce the subpoena. It also has the power to administer oaths necessary to carry out the powers, duties, and functions of the board.

The board is empowered to formulate a plan within 12 months to control and prevent subsidence; adopt temporary rules during plan development; require well permits for one to five years and revoke, suspend, or modify these permits; to conduct required hearings; prepare annual reports relating to the number of wells and their respective pumpage; make annual studies of the ground-water situation including determination of the effects of ground-water withdrawal on subsidence;

regulate well spacing and pumpage; require metering devices; access property to conduct investigations; use monitoring devices to determine water-level declines and land-surface compaction; to cooperate with and obtain assistance from other governmental entities; to conduct research and studies; to enter into contracts with any person; disburse funds; and to assess penalties for violations of district regulations.

The district's powers do not apply to surface water and it may not sell or distribute surface or ground water. The act also recognizes private ownership of ground water. Additionally, the district may not control certain types of wells specifically set out in the bill. These include wells with a casing having an inside diameter of five inches or less that serve a single-family dwelling which have a negligible effect on subsidence.

- 4) **Effect on Texas Water Development Board's water plan** - The Board finds that creation of a proposed subsidence control district is consistent with the State Water Plan objective of local control of groundwater to prevent the effects of subsidence in southeastern Texas. The Board has provided regional water supply planning grant assistance to improve the management of groundwater and promote conversion to surface water supplies in most of Fort Bend County, and the results of the Board-funded planning projects indicate a need to better manage groundwater resources in the area.
- 5) **Texas Water Commission's supervision** - This proposed district will be under the "continuing right of supervision of the State of Texas" by the Commission as set out by Section 12.081 of the Texas Water Code. It is also subject to applicable general reporting provision requirements for all districts as set out in Subchapter A, Sections 50.001 through 50.106, Texas Water Code.
- 6) **Eminent domain power** - This district does not have this power.

- 7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the district; however, Section 4 of the bill sets out the procedure for adding adjoining counties to the district.
- 8) **Adequacy of the boundary description** - The district includes all of the area located within Fort Bend County, therefore, the boundary description is adequate. At present there are a total of 125 water-related districts in existence within the county. Additionally, there are four municipal utility districts on which a hearing is pending. A breakout of those districts now in existence, by category, are as follows: 108 municipal utility, 10 levee improvement/flood control, 6 water control and improvement, and 1 drainage. These are all located in the northern one-half of the county and north of the community of Pleak. Many of the municipal utility districts undoubtedly have wells which would be required to be permitted, subjected to regulation of spacing and production, and would be required to pay a permit fee based on the term of the permit and the maximum amount of ground water authorized to be withdrawn annually from the well.
- 9) **Comments on powers and duties different from similar types of districts**
This district has the normal powers and duties accorded to a subsidence district and the bill goes into great detail on its operation. The bill requires the formulation and review of a management plan within the brief period of 12 months after the effective date of the bill. This does not allow sufficient time for this project. Since the district may contract with any person to perform the duties of general manager and it may enter into contracts with any person, this may allow it to contract with the Harris-Galveston Coastal Subsidence District for general management services and the development of the required management plan.

For clarification of the bill, the following changes are recommended:

- a) on page 7, lines 22 and 26, the word "board" should be changed to general manager; b) on page 10, lines 22 and 25, the word "prevent" should be changed to mitigate; and c) on page 11, line 10, the phrase

"drawdown of the water table" should be changed to long-term static water-level decline.

ADOPTED

MAY 12 1989

Betty Messing
Chief Clerk
House of Representatives

1 AMENDMENT NO.

BY *WILLY*

1 Amend H.B. 2819 as follows:

2
3 ✓ (1) On page 7, line 2 strike "shall" and substitute
4 "may"

5
6 ✓ (2) On page 10, line 22 strike "prevent" and substitute
7 "mitigate"

8 ✓ (3) On page 10, line 25 strike "prevent" and substitute
9 "mitigate"

10 ✓ (4) On page 11, line 10 strike "drawdown of the water
11 table" and substitute "long term static water level decline"

10917
ADOPTED

MAY 12 1989

Betty Murray
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO.

(2)

BY

Saunders

1 Amend H.B. 2819 as follows:

2

3 (1) On page 22, between lines 12 and 13, insert the
4 following:

5 (3) shallow wells producing water solely for
6 groundwater quality analysis and for monitoring migration of
7 subsurface contaminants or pollution and not used to provide
8 water for human consumption, agricultural use, manufacturing or
9 industrial uses, or water injection;

10 (4) shallow wells producing water solely for
11 recovery of contamination or pollution and not used to provide
12 water for human consumption, agricultural use, manufacturing or
13 industrial use, or water injection;

14

15

16 (2) On page 22, line 13, strike "(3)" and substitute
17 "(5)".

18

19 (3) On page 22, line 16, strike "(4)" and substitute
20 "(6)".

21

22

23

By Tallas

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, and operations of the Fort Bend Subsidence District; providing for civil penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. PURPOSE AND INTENT. (a) The purpose of this Act is to provide for the regulation of the withdrawal of groundwater within the district created by this Act to prevent subsidence that contributes to or precipitates flooding, inundation, or overflow of areas within the district, including rising waters resulting from storms or hurricanes.

(b) It is the intent of the legislature that the district created by this Act shall administer and enforce the terms of this Act and shall exercise its rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of this Act.

SECTION 2. DEFINITIONS. In this Act:

(1) "Person" includes a corporation, individual, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, or association, and any other legal entity.

(2) "District" means the Fort Bend Subsidence District.

(3) "Board" means the board of directors of the Fort

1 Bend Subsidence District.

2 (4) "Groundwater" means water existing below the
3 earth's surface within the district, but does not include water
4 produced with oil in the production of oil and gas.

5 (5) "Well" means a facility, device, or method used to
6 withdraw groundwater.

7 (6) "Withdraw" means the act of extracting groundwater
8 by pumping or some other method.

9 (7) "Drill" means drilling, equipping, or completing
10 wells or substantially altering the size of wells or well pumps.

11 (8) "Subsidence" means the lowering in elevation of
12 the surface of land by the withdrawal of groundwater.

13 (9) "Commission" means the Texas Water Commission.

14 SECTION 3. CREATION. Under Article XVI, Section 59, of the
15 Texas Constitution a conservation and reclamation district is
16 created to be known as the Fort Bend Subsidence District. The
17 district is a governmental agency, a political subdivision of the
18 state, and a body politic and corporate.

19 SECTION 4. BOUNDARIES. (a) The district includes all of
20 the territory within Fort Bend County.

21 (b) An adjoining county may be added to the district on
22 application of the commissioners court of the adjoining county and
23 compliance with the applicable provisions of Sections
24 55.730-55.744, Water Code.

25 (c) The proposition on the ballots for an election to add an
26 adjoining county to the district shall be printed to permit voting
27 for or against the proposition: "Addition of _____ County to

1 the Fort Bend Subsidence District."

2 (d) A county added to the district under this section is
3 subject to the jurisdiction of the board and this Act.

4 SECTION 5. BOARD OF DIRECTORS. (a) The district is
5 governed by a board of 13 directors.

6 (b) One director from each of the following cities in Fort
7 Bend County shall be appointed by the mayor of the respective city:

8 (1) Houston;

9 (2) Missouri City;

10 (3) Stafford;

11 (4) Sugar Land;

12 (5) Rosenberg; and

13 (6) Richmond.

14 (c) The Commissioners Court of Fort Bend County shall
15 appoint two directors who represent agricultural interests and live
16 in an unincorporated area, two directors who represent industrial
17 interests, and two directors who represent business interests.

18 (d) One director shall be appointed by the mayors of the
19 incorporated cities within the county not listed in Subsection (b)
20 of this section.

21 (e) If an adjoining county is added to the district, four
22 members shall be added to the board. Two members shall be chosen
23 by the commissioners court of the county added to the district.
24 One member each shall be chosen by the mayors of the two cities in
25 the county added to the district that have the largest populations
26 according to the most recent federal decennial census. The four
27 new members shall draw lots to establish staggered terms of office.

1 (f) All directors must be residents of and qualified voters
2 in the district.

3 (g) The county judge of Fort Bend County shall set a date,
4 time, and place for a meeting of the persons designated in
5 Subsections (b), (c), and (d) of this section to choose the initial
6 directors. The county judge shall choose a date not later than the
7 30th day after the effective date of this Act. The county judge
8 shall mail notices of the meeting to the persons designated to
9 choose the directors. The county judge shall appoint a person to
10 preside at the meeting. The directors chosen at the meeting shall
11 assume their positions not later than the fifth day after the date
12 of the meeting.

13 (h) Selection of subsequent directors shall be made on the
14 second Monday in January at 11 a.m. in the district's main office.
15 Not later than the 20th day before the date of the meeting, the
16 district shall mail notice of the meeting to the persons designated
17 in Subsections (b), (c), (d), and (e) of this section to choose
18 directors.

19 (i) The terms of office for the initial directors shall be
20 as follows:

21 (1) five members chosen under Subsection (b) of this
22 section and four members chosen under Subsection (c) of this
23 section shall serve for terms expiring January 31, 1991; and

24 (2) one member chosen under Subsection (b) of this
25 section, two members chosen under Subsection (c) of this section,
26 and the member chosen under Subsection (d) of this section shall
27 serve for terms expiring January 31, 1990.

1 (j) Except as provided by Subsection (i) of this section,
2 members of the board shall serve for terms of two years.

3 (k) At the time the county judge of Fort Bend County sets
4 the meeting required by Subsection (g) of this section, the county
5 judge shall set the date, time, and place for the initial meeting
6 of the board. Not later than the 20th day before the date of the
7 initial meeting of the board, the county judge shall mail notices
8 of the meeting to the initial directors.

9 (l) At the initial meeting of the board and each year at the
10 first meeting after new directors take office, the directors shall
11 select a chairman, a vice-chairman, and a secretary. The chairman,
12 vice-chairman, and secretary shall serve at the pleasure of the
13 board and may be removed and replaced by a majority of the board at
14 any time.

15 (m) The chairman shall preside over meetings of the board.
16 If the chairman is not present, the vice-chairman shall preside.

17 (n) Each director is entitled to receive \$50 a day for each
18 day he is engaged in the exercise of his duties under this Act and
19 necessary travel and other expenses incurred in the exercise of his
20 duties under this Act. A member of the board may not receive
21 compensation and travel and other expenses for more than 120 days
22 in any one calendar year.

23 (o) If a vacancy occurs on the board, the person or persons
24 designated in Subsection (b), (c), (d), or (e) of this section to
25 appoint a director for the position that is vacated shall appoint a
26 director to serve the unexpired term.

27 (p) Each director shall take the oath of office prescribed

1 by law for county commissioners and shall execute a bond in the
2 amount of \$5,000, payable to the district, conditioned on the
3 faithful performance of his duties. The district shall pay for the
4 bond.

5 (q) A majority of the directors constitute a quorum for
6 transaction of business of the district. An official act of the
7 board is not valid without the affirmative vote of a majority of
8 the directors.

9 (r) The board shall hold one regular meeting each month at a
10 time set by the board. The board may hold special meetings at the
11 call of the chairman or on the written request of at least three
12 directors.

13 SECTION 6. POWERS AND DUTIES IN GENERAL. (a) The board
14 shall administer this Act as provided by Section 1 of this Act.

15 (b) Withdrawals of groundwater covered by this Act are
16 subject to reasonable rules, regulations, and orders adopted by the
17 board.

18 (c) In adopting rules, regulations, and orders, the board
19 shall consider the following factors:

- 20 (1) availability of surface water;
21 (2) economic impact on persons and the community;
22 (3) degree and effect of subsidence on the surface of
23 the land; and
24 (4) differing topographical and geophysical
25 characteristics of the land.

26 (d) The board has all other powers necessary or convenient
27 to carry out its responsibilities and achieve the purpose of this

1 Act.

2 SECTION 7. GENERAL MANAGER. (a) The board may employ a
3 general manager who shall be the chief administrative officer of
4 the district. The board may delegate to the general manager the
5 authority to manage and operate the affairs of the district subject
6 only to orders of the board.

7 (b) The duties of the general manager include:

8 (1) administration of the orders of the board;

9 (2) coordination with state, federal, and local
10 agencies;

11 (3) supervision of the development of plans and
12 programs of the district;

13 (4) preparation and submission of the annual budget to
14 the board; and

15 (5) other duties assigned by the board.

16 (c) The general manager shall execute a bond in an amount
17 determined by the board, payable to the district, conditioned on
18 the faithful performance of his duties. The district shall pay for
19 the bond.

20 (d) The district may contract with any person to perform the
21 duties of general manager.

22 SECTION 8. EMPLOYEES. (a) The board shall employ personnel
23 necessary for the proper handling of the business and operation of
24 the district and may employ attorneys, bookkeepers, engineers, and
25 other expert and specialized personnel that are considered
26 necessary. The board shall determine the compensation to be paid
27 by the district to the employees.

1 (b) The board shall determine the term of office of and the
2 compensation to be paid to the general manager. The board may
3 discharge the general manager by a majority vote. The board may
4 discharge employees of the district.

5 (c) The board shall require an employee who collects, pays,
6 or handles funds of the district to furnish good and sufficient
7 bond, payable to the district, for a sufficient amount to safeguard
8 the district. The bond shall be conditioned on the faithful
9 performance of the employee's duties and on accounting for all
10 funds and property of the district under the employee's control.
11 The district shall pay for the bond.

12 SECTION 9. DISTRICT OFFICE. The board shall maintain its
13 principal office for conducting the business of the district. The
14 office must be located inside the district.

15 SECTION 10. MINUTES AND RECORDS OF DISTRICT. The district
16 shall keep a true and complete account of the board's meetings and
17 proceedings and shall preserve the board's minutes, contracts,
18 records, notices, accounts, and receipts in a fireproof vault or
19 safe. The board's minutes, contracts, records, notices, accounts,
20 and receipts are the property of the district and are subject to
21 public inspection.

22 SECTION 11. SUITS. The district may sue and be sued in the
23 courts of this state in the name of the district by and through the
24 board. If requested by the district, the attorney general shall
25 represent the district in the district and appellate courts of this
26 state and in the courts of the United States. The board, in its
27 sole discretion, may employ attorneys to represent the district in

1 the district and appellate courts of this state and in the courts
2 of the United States. All courts shall take judicial notice of the
3 creation of the district and of its boundaries.

4 SECTION 12. SEAL. The board shall adopt a seal.

5 SECTION 13. RULES AND REGULATIONS. (a) After notice and
6 hearing under Section 14 of this Act, the board shall adopt and
7 enforce rules and regulations that are designed to expeditiously
8 and effectively accomplish the provisions and purposes of this Act,
9 including rules governing procedure before the board.

10 (b) The board shall compile its rules and regulations in a
11 book and make the book available for use and inspection at the
12 district's principal office. The district shall provide copies of
13 its rules and regulations on payment of the cost of reproduction.

14 SECTION 14. HEARINGS. (a) At regular meetings of the
15 board, the board shall set the dates, times, and locations for
16 hearings to be held under this Act.

17 (b) Not later than the 20th day before the date set for a
18 hearing, the district shall deliver or mail notice of the hearing
19 under this section to each county and municipal government within
20 the district and to each person that the board believes has an
21 interest in the subject matter to be dealt with at the hearing.

22 (c) Not later than the 20th day before the date set for a
23 hearing, the district shall publish notice of the hearing under
24 this section once in a newspaper of general circulation in each
25 county within the district.

26 (d) Not later than the 20th day before the date set for a
27 hearing, the district shall post the notice of the hearing under

1 this section at the county courthouse of each county within the
2 district in the place where notices are usually posted.

3 (e) Any person who desires to appear at a hearing and
4 present testimony, evidence, exhibits, or other information may do
5 so in person, by counsel, or both.

6 (f) The board may hold hearings at any location within the
7 district.

8 (g) The board may recess a hearing from day to day.

9 (h) The board may use hearing examiners to hear any subject
10 set for the hearing. Procedures for use of hearing examiners shall
11 be provided in the rules and regulations.

12 SECTION 15. COMPELLING TESTIMONY, SWEARING WITNESSES, AND
13 SUBPOENAS. The board may subpoena a person to testify if the
14 person's testimony is necessary to carry out the powers, duties,
15 and functions of the board under this Act. The board may
16 administer oaths to persons who testify before the board. The
17 board may subpoena documents if the documents are necessary to
18 carry out the powers, duties, and functions of the board under this
19 Act. On application of the board, a district court shall enforce
20 the subpoena in the same manner as a subpoena issued by the court.

21 SECTION 16. DISTRICT PLAN. (a) Under Section 14 of this
22 Act, the board shall formulate a plan to control and mitigate
23 subsidence within the district. The plan shall accomplish this
24 purpose by the regulation of groundwater withdrawals to maintain
25 sufficient artesian pressure to control and mitigate subsidence.

26 (b) The plan shall specify, in as much detail as
27 practicable, the acts, procedures, performance, and avoidance that

1 are necessary to carry out the purposes of this Act.

2 (c) When formulating the plan, the board shall compile and
3 consider:

4 (1) a list of wells in the district that will be
5 subject to regulation under this Act;

6 (2) an accurate estimate of groundwater production
7 from each well or proposed well in the district;

8 (3) an accurate estimate of the amount of groundwater
9 that may be produced from each well and each area in the district
10 without causing long-term static water level decline and reduction
11 of artesian pressure that will lead to subsidence within the
12 district;

13 (4) an accurate estimate of the current and future
14 water needs of each well owner in the district;

15 (5) an accurate estimate of the groundwater production
16 capacity of each well in the district;

17 (6) a list of all available sources of water in the
18 district other than groundwater;

19 (7) the purpose for which the water is currently used
20 and for which it is proposed to be used in the future;

21 (8) information relating to formulation of a permit
22 system; and

23 (9) other information necessary to carry out the
24 management of groundwater in the district and to effectively and
25 expeditiously accomplish the purposes of this Act.

26 (d) The plan shall be formulated not later than 12 months
27 after the effective date of this Act.

1 (e) Not later than the 60th day after the date the plan is
2 formulated, the board shall review and adopt the plan.

3 (f) Before the plan is adopted, the board shall hold a
4 hearing under Section 14 of this Act to consider the proposed plan.

5 (g) After the hearing, the board shall make any changes it
6 considers necessary based on evidence and material presented at the
7 hearing and shall adopt the plan.

8 (h) The plan adopted under this section may be amended or
9 repealed. A new plan may be adopted in the manner provided in this
10 section for the adoption of the original plan. A plan, once
11 adopted, shall remain in effect until the adoption of a new plan.

12 SECTION 17. TEMPORARY REGULATION. During the period that
13 the board is formulating and adopting the plan under Section 16 of
14 this Act, the board shall adopt temporary rules and regulations
15 relating to the withdrawal of groundwater that are necessary to
16 control subsidence.

17 SECTION 18. PERMIT REQUIREMENT. (a) The owner of a well
18 located in the district must obtain a permit from the board to
19 withdraw groundwater.

20 (b) Owners of wells operating or being drilled on the
21 effective date of this Act must apply for a permit before January
22 1, 1990, and may continue to operate the well without a permit
23 until the application for a permit for the well is acted on by the
24 board.

25 (c) A permit issued under this Act is valid for a term of
26 one year from the date it is issued unless a longer or shorter term
27 is specified by the board. The board may issue a permit for a term

1 not to exceed five years in order to aid the district in the
2 effective and expeditious performance of its duties if issuance of
3 the permit does not impair the ability of the district to control
4 and prevent subsidence within the district.

5 (d) A permit may be revoked, suspended, modified, or amended
6 after notice and public hearing under Section 14 of this Act
7 whenever reasonably necessary to accomplish the purposes of this
8 Act.

9 (e) Permits may be renewed in the same manner as permits are
10 issued.

11 (f) To obtain a permit, a person must submit an application
12 and an application fee to the board. The application must state:

- 13 (1) the person's name;
14 (2) the person's address;
15 (3) the location and wellhead elevation of the well or
16 proposed well;
17 (4) the amount of water being produced or proposed to
18 be produced; and

19 (5) any other information required by the board as
20 necessary for the board to control and prevent subsidence in the
21 district.

22 (g) The board shall use the application fee to process
23 applications.

24 SECTION 19. NOTICE AND HEARING ON PERMIT. (a) The board
25 shall hold a hearing on each application.

26 (b) Not later than the 20th day before the date set for the
27 hearing, the board shall notify the applicant by certified mail,

1 return receipt requested, of the date, time, and location of the
2 hearing.

3 (c) Except as provided by this section, the hearing shall be
4 conducted and notice of hearing given under Section 14 of this Act.

5 (d) The board may consider as many applications for permits
6 as it considers necessary at a hearing.

7 SECTION 20. ISSUANCE OF PERMIT. (a) Not later than the
8 35th day after the date of the hearing, the board shall decide
9 whether or not to issue a permit and shall formulate the terms of
10 the permit, if issued.

11 (b) In deciding whether or not to issue a permit and in
12 setting the terms of the permit, the board shall consider:

13 (1) the purpose of this Act;

14 (2) the district plan;

15 (3) the quality, quantity, and availability of surface
16 water at prices competitive with those charged by suppliers of
17 surface water within the district; and

18 (4) the economic impact on the applicant of granting
19 or denying the permit or of the terms prescribed by a permit in
20 relation to the effect on subsidence that would result.

21 (c) The board shall grant a permit to an applicant whenever
22 the board finds on sufficient evidence that:

23 (1) there is no other adequate and available
24 substitute or supplemental source of surface water at prices
25 competitive with those charged by suppliers of surface water within
26 the district; and

27 (2) compliance with any provision of this Act, or any

1 rule or regulation of the district, will result in an arbitrary
2 taking of property or in the practical closing and elimination of
3 any lawful business, occupation, or activity, without sufficient
4 corresponding benefit or advantage to the people.

5 (d) If the board decides to issue the permit, the permit
6 must state the terms prescribed by the board.

7 (e) The permit must include the following:

8 (1) the name and address of the permittee;

9 (2) the location of the well;

10 (3) the date the permit begins and the date the permit
11 expires;

12 (4) conditions and restrictions placed on the
13 withdrawal of groundwater;

14 (5) adoption of water conservation measures for the
15 purpose of preventing waste of groundwater, including educational
16 programs; and

17 (6) any other terms and conditions necessary to
18 control and prevent subsidence.

19 SECTION 21. PERMIT NOT TRANSFERABLE. A permit issued under
20 this Act is not transferable unless the permittee and new owner
21 notify the district by certified mail, return receipt requested, of
22 the transfer of ownership of the well and provide the name and
23 address of the new owner. On receipt of that information, the
24 district shall issue an amended permit with the new owner of the
25 well as permittee. The remaining terms of the permit shall remain
26 unchanged.

27 SECTION 22. ANNUAL REPORTS. Before January 31 of each year,

1 each owner of a well who holds a permit under this Act shall submit
2 a report to the board stating the following:

- 3 (1) the person's name;
- 4 (2) the location of the well;
- 5 (3) the total amount of groundwater produced by the
6 well during the immediately preceding 12-month period;
- 7 (4) the total amount of groundwater produced by the
8 well during each separate month of the immediately preceding
9 12-month period;
- 10 (5) the purpose for which the groundwater was used;
- 11 (6) the date the permit expires; and
- 12 (7) any other information required by the board as
13 necessary for the board to control and prevent subsidence within
14 the district.

15 SECTION 23. BOARD INVESTIGATIONS. At least once each year
16 and at any other time that the board considers necessary, the board
17 may have its staff make a complete study of the groundwater
18 situation within the district and determine the water level, rates
19 of withdrawal, amounts of withdrawal, and other information
20 relating to the withdrawal of groundwater that may affect the
21 subsidence of land within the district.

22 SECTION 24. ANNUAL GROUNDWATER WITHDRAWAL DETERMINATION.
23 (a) Before March 31 of each year, the board shall hold a hearing
24 under Section 14 of this Act to determine the effects during the
25 preceding calendar year of groundwater withdrawal on the subsidence
26 of land within the district.

27 (b) At the hearing, the board shall consider the annual

1 reports submitted under Section 22 of this Act and the
2 investigation made under Section 23 of this Act in addition to
3 information represented by persons appearing before the board.

4 (c) After the hearing, the board shall consider all the
5 information presented to it and shall determine the groundwater
6 withdrawal in the district during the preceding calendar year and
7 shall make findings of the effects of groundwater withdrawal during
8 that year on the subsidence of land within the district. A report
9 of the board's findings and determinations shall be made available
10 for examination by any interested person.

11 SECTION 25. REGULATION OF SPACING AND PRODUCTION. (a) In
12 order to minimize as far as practicable the drawdown of the water
13 table and reduction of artesian pressure and to control and prevent
14 subsidence, the board may provide for the spacing of wells and
15 regulate the production of groundwater from the wells, taking into
16 consideration any relevant factors, including the economic impact
17 on well owners and the resulting effect on subsidence.

18 (b) Before issuing any rule, regulation, or order under this
19 section, the board shall set a hearing on the proposed rule,
20 regulation, or order and issue notice of the hearing. Notice must
21 be given and hearings conducted in the manner provided in Section
22 14 of this Act.

23 SECTION 26. REQUIRING WATER-METERING DEVICES. The board may
24 adopt orders after notice and hearing under Section 14 of this Act
25 requiring water-metering devices to be placed on wells.

26 SECTION 27. ACCESS TO PROPERTY. (a) To carry out technical
27 and other investigations necessary to the implementation of this

1 Act, the board and its agents and employees are entitled to access
2 to all property within the district.

3 (b) Before entering property for the purposes stated in
4 Subsection (a) of this section, the person seeking access shall
5 give notice to the owner of the property in the manner provided by
6 the rules and regulations of the district and shall present proper
7 credentials.

8 (c) The board, and its agents and employees who enter
9 private property, shall observe the establishment's rules and
10 regulations concerning safety, internal security, and fire
11 protection.

12 SECTION 28. MONITORING AND SUPERVISIONS OF DISTRICT. The
13 district may use subsidence compaction monitors, water level
14 observation wells, and other materials and equipment to determine
15 the amount of groundwater that may be produced while allowing the
16 rebound and stabilization of groundwater to a level that will halt
17 subsidence.

18 SECTION 29. RESEARCH AND STUDIES. The board may conduct
19 studies and research that it considers necessary to implement this
20 Act. The board may use the services of geologists, hydrologists,
21 registered professional engineers, or other expert personnel to
22 accomplish the purposes of this section.

23 SECTION 30. COOPERATION WITH AND ASSISTANCE OF OTHER
24 GOVERNMENTAL ENTITIES. The board may cooperate with and request
25 the assistance of the Texas Water Development Board, the
26 commission, the United States Geological Survey, local governments,
27 and other agencies of the United States and the State of Texas in

1 implementing this Act.

2 SECTION 31. CONTRACTS. The board may enter into contracts
3 with any person to carry out this Act.

4 SECTION 32. APPEAL OF DISTRICT ACTIONS TO A DISTRICT COURT.

5 (a) A person who is adversely affected by a rule, regulation,
6 order, or other official action of the board may appeal to a
7 district court in any county in the district.

8 (b) For the purposes of this section, "a person who is
9 adversely affected" includes a person residing in or owning real
10 property in the district whose residence or real property is
11 subsiding. An appeal under this section must be filed not later
12 than the 45th day after the date the rule, regulation, order, or
13 other official action appealed from is promulgated.

14 (c) On written request of a person who is adversely
15 affected, the board shall make written findings and conclusions
16 with respect to a rule, regulation, order, or other official action
17 of the district. Not later than the 35th day after the request was
18 made, the board shall provide a certified copy of the findings and
19 conclusions to the person who made the request.

20 (d) In appeals taken under this section, the substantial
21 evidence rule shall be used to determine the legal propriety of a
22 rule, regulation, order, or other action of the board.

23 SECTION 33. APPEAL OF CERTAIN DISTRICT ACTIONS TO THE
24 COMMISSION. (a) As an alternative to the appeal provided by
25 Section 32 of this Act, a person who is granted a permit
26 authorizing withdrawal of groundwater in an amount less than
27 requested by that person may appeal the board's final decision to

1 the commission. The appeal shall be filed not later than the 60th
2 day after the date of the final order of the board.

3 (b) On written request of the person proposing to appeal an
4 order under Subsection (a) of this section, the board shall make
5 written findings and conclusions with respect to the order and
6 shall provide certified copies of the findings and conclusions to
7 the person making the request not later than the 35th day after the
8 date on which the written request is submitted to the board.

9 (c) The effect of a board order is stayed until the decision
10 of the commission in an appeal under this section is final.

11 (d) The review on appeal to the commission under this
12 section is governed by the substantial evidence rule as provided by
13 Section 19(e), Administrative Procedure and Texas Register Act
14 (Article 6252-13a, Vernon's Texas Civil Statutes).

15 (e) The commission may adopt necessary rules to carry out
16 the provisions of this section.

17 (f) An appeal from a final decision of the commission is to
18 a district court in Travis County and is governed by the
19 substantial evidence rule. Any party to the proceedings before the
20 commission may appeal a decision of the district court in the
21 manner provided for other civil actions, but a party appealing a
22 decision of a district court is not required to provide an appeal
23 bond.

24 (g) Under this section, the commission may adopt and assess
25 reasonable and necessary fees adequate to recover the costs of the
26 commission in administering this section.

27 SECTION 34. PERMIT FEE. (a) At the time a permit is issued

1 or renewed, the board shall collect from the permittee a permit
2 fee, established by schedule, based on the term of the permit and
3 the maximum amount of groundwater authorized by the board to be
4 withdrawn annually from the well.

5 (b) The fee schedule shall be determined by the board after
6 a hearing under Section 14 of this Act.

7 (c) The board shall use the funds obtained from permit fees
8 to cover the costs of issuing permits and performing other
9 functions under this Act.

10 SECTION 35. GRANTS, PURCHASES, GIFTS, LEASES, ETC. On
11 behalf of the district, the board may:

12 (1) purchase, lease, own, convey, and dispose of
13 property both inside and outside the district necessary or
14 convenient to the exercise of the powers, duties, and functions of
15 the board under this Act;

16 (2) accept grants, gifts, and devises of property;

17 (3) construct, purchase, lease, or acquire in some
18 other manner any material or property necessary to carry out this
19 Act; and

20 (4) accept gifts, grants, loans, or other
21 distributions of money.

22 SECTION 36. OWNERSHIP OF GROUNDWATER. The ownership and
23 rights of the owner of land and his lessees and assigns in
24 groundwater are recognized and nothing in this Act shall be
25 construed as depriving or divesting the owner or his lessees and
26 assigns of the ownership or rights, subject to rules and
27 regulations and orders and other official actions of the district.

1 SECTION 37. SURFACE WATER LAWS NOT APPLICABLE. The laws and
2 administrative rules relating to the use of surface water do not
3 apply to groundwater.

4 SECTION 38. SALE AND DISTRIBUTION OF WATER PROHIBITED. The
5 district may not sell or distribute surface water or groundwater
6 for any purpose.

7 SECTION 39. EXCLUSIONS. This Act does not apply to:

8 (1) wells regulated under Chapter 27, Water Code;

9 (2) shallow wells producing water solely to prevent
10 hazardous sand boils, dewater surface construction sites, or
11 relieve hydrostatic uplift on permanent structures and not used to
12 provide water for human consumption, agricultural use,
13 manufacturing or industrial use, or water injection;

14 (3) shallow wells producing water solely for
15 groundwater quality analysis and for monitoring migration of
16 subsurface contaminants or pollution and not used to provide water
17 for human consumption, agricultural use, manufacturing or
18 industrial uses, or water injection;

19 (4) shallow wells producing water solely for recovery
20 of contamination or pollution and not used to provide water for
21 human consumption, agricultural use, manufacturing or industrial
22 use, or water injection;

23 (5) persons owning only one well within the district
24 if the well has a casing with an inside diameter of five inches or
25 less; and

26 (6) on application for an exemption on a form
27 prescribed by the board, other wells with a casing that has an

1 inside diameter of five inches or less that serve a single-family
2 dwelling and have a negligible effect on subsidence within the
3 district.

4 SECTION 40. DISBURSEMENT OF FUNDS. The district's money may
5 be disbursed by check, draft, order, or other instruments, signed
6 by the person or persons authorized to do so by the board's bylaws
7 or by resolution of the board.

8 SECTION 41. ACCOUNTS AND INDEPENDENT AUDIT. (a) The
9 district shall keep a complete system of accounts and shall have
10 its affairs audited each year by an independent certified public
11 accountant or a firm of independent certified public accountants of
12 recognized integrity and ability. The district shall pay for the
13 audit.

14 (b) The board shall deliver a copy of the audit to the
15 commissioners court of each county in the district. The board
16 shall keep one copy of the audit at the district office, open to
17 inspection by any interested person during normal office hours.

18 SECTION 42. DEPOSITORY BANKS. (a) The board shall
19 designate one or more banks within the district to serve as
20 depository for the funds of the district. Except as provided by
21 Subsection (b) of this section, all funds of the district shall be
22 deposited in a depository bank.

23 (b) To the extent provided in a trust indenture, bond
24 proceeds and funds pledged to pay bonds may be deposited with the
25 trustee bank named in the trust indenture and shall be remitted to
26 the bank of payment for the payment of the principal of and
27 interest on the bonds.

1 (c) To the extent that funds in a depository bank or a
2 trustee bank are not invested or insured by the Federal Deposit
3 Insurance Corporation, they shall be secured in the manner provided
4 by law for the security of county funds.

5 (d) Before designating a depository bank, the board shall
6 issue a notice stating the time and place the board will meet for
7 that purpose and shall invite the banks in the district to submit
8 applications to be designated depositories. The term of service
9 for depositories shall be prescribed by the board. The board shall
10 publish the notice once in a newspaper of general circulation in
11 the district or mail a copy of the notice to each bank in the
12 district.

13 (e) The board shall consider the management and condition of
14 the banks that apply and shall designate as depositories the bank
15 or banks that offer the most favorable terms and conditions for
16 handling of the funds of the district and that the board finds have
17 proper management and are in condition to warrant handling of
18 district funds.

19 (f) Membership on the board of an officer or director of a
20 bank does not disqualify the bank from being designated as
21 depository.

22 (g) If no applications are received before the meeting, the
23 board shall designate a bank or banks within or outside the
24 district on terms and conditions it finds advantageous to the
25 district.

26 SECTION 43. PENALTIES. (a) If a person has violated, is
27 violating, or is threatening to violate a provision of this Act or

1 a rule, regulation, permit, or other order of the district, the
2 district may bring a civil action in a district court within the
3 district for an injunction to restrain the person from continuing
4 the violation or the threat of violation, for a civil penalty of
5 not less than \$50 nor more than \$5,000 for each violation and for
6 each day of violation, or for both injunctive relief and civil
7 penalty.

8 (b) At the request of the district, or the general manager
9 authorized by the board, the attorney general shall institute the
10 action. However, the district in its sole discretion may employ
11 attorneys of its choice to institute the action.

12 (c) The board is not required to post bond or other security
13 with the court under this section.

14 (d) On application for injunctive relief and a finding that
15 a person is violating or threatening to violate any provision of
16 this Act or any rule, permit, or other order of the district, the
17 district court shall grant any injunctive relief the facts may
18 warrant.

19 SECTION 44. LEGISLATIVE FINDING OF AUTHORITY. The
20 legislature finds that the requirements of Article XVI, Sections
21 59(d) and (e), of the Texas Constitution have been performed and
22 accomplished and that the legislature has the power and authority
23 to enact this Act.

24 SECTION 45. EMERGENCY. The importance of this legislation
25 and the crowded condition of the calendars in both houses create an
26 emergency and an imperative public necessity that the
27 constitutional rule requiring bills to be read on three several

H.B. No. 2819

1 days in each house be suspended, and this rule is hereby suspended,
2 and that this Act take effect and be in force from and after its
3 passage, and it is so enacted.

HOUSE ENGROSSMENT

89 MAY 16 PM 6:56
HOUSE OF REPRESENTATIVES

By Tallas

H.B. No. 2819

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, and operations of the Fort Bend Subsidence District; providing for civil penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. PURPOSE AND INTENT. (a) The purpose of this Act is to provide for the regulation of the withdrawal of groundwater within the district created by this Act to prevent subsidence that contributes to or precipitates flooding, inundation, or overflow of areas within the district, including rising waters resulting from storms or hurricanes.

(b) It is the intent of the legislature that the district created by this Act shall administer and enforce the terms of this Act and shall exercise its rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of this Act.

SECTION 2. DEFINITIONS. In this Act:

(1) "Person" includes a corporation, individual, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, or association, and any other legal entity.

(2) "District" means the Fort Bend Subsidence District.

(3) "Board" means the board of directors of the Fort

1 Bend Subsidence District.

2 (4) "Groundwater" means water existing below the
3 earth's surface within the district, but does not include water
4 produced with oil in the production of oil and gas.

5 (5) "Well" means a facility, device, or method used to
6 withdraw groundwater.

7 (6) "Withdraw" means the act of extracting groundwater
8 by pumping or some other method.

9 (7) "Drill" means drilling, equipping, or completing
10 wells or substantially altering the size of wells or well pumps.

11 (8) "Subsidence" means the lowering in elevation of
12 the surface of land by the withdrawal of groundwater.

13 (9) "Commission" means the Texas Water Commission.

14 SECTION 3. CREATION. Under Article XVI, Section 59, of the
15 Texas Constitution a conservation and reclamation district is
16 created to be known as the Fort Bend Subsidence District. The
17 district is a governmental agency, a political subdivision of the
18 state, and a body politic and corporate.

19 SECTION 4. BOUNDARIES. (a) The district includes all of
20 the territory within Fort Bend County.

21 (b) An adjoining county may be added to the district on
22 application of the commissioners court of the adjoining county and
23 compliance with the applicable provisions of Sections
24 55.730-55.744, Water Code.

25 (c) The proposition on the ballots for an election to add an
26 adjoining county to the district shall be printed to permit voting
27 for or against the proposition: "Addition of _____ County to

1 the Fort Bend Subsidence District."

2 (d) A county added to the district under this section is
3 subject to the jurisdiction of the board and this Act.

4 SECTION 5. BOARD OF DIRECTORS. (a) The district is
5 governed by a board of 13 directors.

6 (b) One director from each of the following cities in Fort
7 Bend County shall be appointed by the mayor of the respective city:

8 (1) Houston;

9 (2) Missouri City;

10 (3) Stafford;

11 (4) Sugar Land;

12 (5) Rosenberg; and

13 (6) Richmond.

14 (c) The Commissioners Court of Fort Bend County shall
15 appoint two directors who represent agricultural interests and live
16 in an unincorporated area, two directors who represent industrial
17 interests, and two directors who represent business interests.

18 (d) One director shall be appointed by the mayors of the
19 incorporated cities within the county not listed in Subsection (b)
20 of this section.

21 (e) If an adjoining county is added to the district, four
22 members shall be added to the board. Two members shall be chosen
23 by the commissioners court of the county added to the district.
24 One member each shall be chosen by the mayors of the two cities in
25 the county added to the district that have the largest populations
26 according to the most recent federal decennial census. The four
27 new members shall draw lots to establish staggered terms of office.

1 (f) All directors must be residents of and qualified voters
2 in the district.

3 (g) The county judge of Fort Bend County shall set a date,
4 time, and place for a meeting of the persons designated in
5 Subsections (b), (c), and (d) of this section to choose the initial
6 directors. The county judge shall choose a date not later than the
7 30th day after the effective date of this Act. The county judge
8 shall mail notices of the meeting to the persons designated to
9 choose the directors. The county judge shall appoint a person to
10 preside at the meeting. The directors chosen at the meeting shall
11 assume their positions not later than the fifth day after the date
12 of the meeting.

13 (h) Selection of subsequent directors shall be made on the
14 second Monday in January at 11 a.m. in the district's main office.
15 Not later than the 20th day before the date of the meeting, the
16 district shall mail notice of the meeting to the persons designated
17 in Subsections (b), (c), (d), and (e) of this section to choose
18 directors.

19 (i) The terms of office for the initial directors shall be
20 as follows:

21 (1) five members chosen under Subsection (b) of this
22 section and four members chosen under Subsection (c) of this
23 section shall serve for terms expiring January 31, 1991; and

24 (2) one member chosen under Subsection (b) of this
25 section, two members chosen under Subsection (c) of this section,
26 and the member chosen under Subsection (d) of this section shall
27 serve for terms expiring January 31, 1990.

1 (j) Except as provided by Subsection (i) of this section,
2 members of the board shall serve for terms of two years.

3 (k) At the time the county judge of Fort Bend County sets
4 the meeting required by Subsection (g) of this section, the county
5 judge shall set the date, time, and place for the initial meeting
6 of the board. Not later than the 20th day before the date of the
7 initial meeting of the board, the county judge shall mail notices
8 of the meeting to the initial directors.

9 (l) At the initial meeting of the board and each year at the
10 first meeting after new directors take office, the directors shall
11 select a chairman, a vice-chairman, and a secretary. The chairman,
12 vice-chairman, and secretary shall serve at the pleasure of the
13 board and may be removed and replaced by a majority of the board at
14 any time.

15 (m) The chairman shall preside over meetings of the board.
16 If the chairman is not present, the vice-chairman shall preside.

17 (n) Each director is entitled to receive \$50 a day for each
18 day he is engaged in the exercise of his duties under this Act and
19 necessary travel and other expenses incurred in the exercise of his
20 duties under this Act. A member of the board may not receive
21 compensation and travel and other expenses for more than 120 days
22 in any one calendar year.

23 (o) If a vacancy occurs on the board, the person or persons
24 designated in Subsection (b), (c), (d), or (e) of this section to
25 appoint a director for the position that is vacated shall appoint a
26 director to serve the unexpired term.

27 (p) Each director shall take the oath of office prescribed

1 by law for county commissioners and shall execute a bond in the
2 amount of \$5,000, payable to the district, conditioned on the
3 faithful performance of his duties. The district shall pay for the
4 bond.

5 (q) A majority of the directors constitute a quorum for
6 transaction of business of the district. An official act of the
7 board is not valid without the affirmative vote of a majority of
8 the directors.

9 (r) The board shall hold one regular meeting each month at a
10 time set by the board. The board may hold special meetings at the
11 call of the chairman or on the written request of at least three
12 directors.

13 SECTION 6. POWERS AND DUTIES IN GENERAL. (a) The board
14 shall administer this Act as provided by Section 1 of this Act.

15 (b) Withdrawals of groundwater covered by this Act are
16 subject to reasonable rules, regulations, and orders adopted by the
17 board.

18 (c) In adopting rules, regulations, and orders, the board
19 shall consider the following factors:

- 20 (1) availability of surface water;
21 (2) economic impact on persons and the community;
22 (3) degree and effect of subsidence on the surface of
23 the land; and
24 (4) differing topographical and geophysical
25 characteristics of the land.

26 (d) The board has all other powers necessary or convenient
27 to carry out its responsibilities and achieve the purpose of this

1 Act.

2 SECTION 7. GENERAL MANAGER. (a) The board may employ a
3 general manager who shall be the chief administrative officer of
4 the district. The board may delegate to the general manager the
5 authority to manage and operate the affairs of the district subject
6 only to orders of the board.

7 (b) The duties of the general manager include:

8 (1) administration of the orders of the board;

9 (2) coordination with state, federal, and local
10 agencies;

11 (3) supervision of the development of plans and
12 programs of the district;

13 (4) preparation and submission of the annual budget to
14 the board; and

15 (5) other duties assigned by the board.

16 (c) The general manager shall execute a bond in an amount
17 determined by the board, payable to the district, conditioned on
18 the faithful performance of his duties. The district shall pay for
19 the bond.

20 (d) The district may contract with any person to perform the
21 duties of general manager.

22 SECTION 8. EMPLOYEES. (a) The board shall employ personnel
23 necessary for the proper handling of the business and operation of
24 the district and may employ attorneys, bookkeepers, engineers, and
25 other expert and specialized personnel that are considered
26 necessary. The board shall determine the compensation to be paid
27 by the district to the employees.

1 (b) The board shall determine the term of office of and the
2 compensation to be paid to the general manager. The board may
3 discharge the general manager by a majority vote. The board may
4 discharge employees of the district.

5 (c) The board shall require an employee who collects, pays,
6 or handles funds of the district to furnish good and sufficient
7 bond, payable to the district, for a sufficient amount to safeguard
8 the district. The bond shall be conditioned on the faithful
9 performance of the employee's duties and on accounting for all
10 funds and property of the district under the employee's control.
11 The district shall pay for the bond.

12 SECTION 9. DISTRICT OFFICE. The board shall maintain its
13 principal office for conducting the business of the district. The
14 office must be located inside the district.

15 SECTION 10. MINUTES AND RECORDS OF DISTRICT. The district
16 shall keep a true and complete account of the board's meetings and
17 proceedings and shall preserve the board's minutes, contracts,
18 records, notices, accounts, and receipts in a fireproof vault or
19 safe. The board's minutes, contracts, records, notices, accounts,
20 and receipts are the property of the district and are subject to
21 public inspection.

22 SECTION 11. SUITS. The district may sue and be sued in the
23 courts of this state in the name of the district by and through the
24 board. If requested by the district, the attorney general shall
25 represent the district in the district and appellate courts of this
26 state and in the courts of the United States. The board, in its
27 sole discretion, may employ attorneys to represent the district in

1 the district and appellate courts of this state and in the courts
2 of the United States. All courts shall take judicial notice of the
3 creation of the district and of its boundaries.

4 SECTION 12. SEAL. The board shall adopt a seal.

5 SECTION 13. RULES AND REGULATIONS. (a) After notice and
6 hearing under Section 14 of this Act, the board shall adopt and
7 enforce rules and regulations that are designed to expeditiously
8 and effectively accomplish the provisions and purposes of this Act,
9 including rules governing procedure before the board.

10 (b) The board shall compile its rules and regulations in a
11 book and make the book available for use and inspection at the
12 district's principal office. The district shall provide copies of
13 its rules and regulations on payment of the cost of reproduction.

14 SECTION 14. HEARINGS. (a) At regular meetings of the
15 board, the board shall set the dates, times, and locations for
16 hearings to be held under this Act.

17 (b) Not later than the 20th day before the date set for a
18 hearing, the district shall deliver or mail notice of the hearing
19 under this section to each county and municipal government within
20 the district and to each person that the board believes has an
21 interest in the subject matter to be dealt with at the hearing.

22 (c) Not later than the 20th day before the date set for a
23 hearing, the district shall publish notice of the hearing under
24 this section once in a newspaper of general circulation in each
25 county within the district.

26 (d) Not later than the 20th day before the date set for a
27 hearing, the district shall post the notice of the hearing under

1 this section at the county courthouse of each county within the
2 district in the place where notices are usually posted.

3 (e) Any person who desires to appear at a hearing and
4 present testimony, evidence, exhibits, or other information may do
5 so in person, by counsel, or both.

6 (f) The board may hold hearings at any location within the
7 district.

8 (g) The board may recess a hearing from day to day.

9 (h) The board may use hearing examiners to hear any subject
10 set for the hearing. Procedures for use of hearing examiners shall
11 be provided in the rules and regulations.

12 SECTION 15. COMPELLING TESTIMONY, SWEARING WITNESSES, AND
13 SUBPOENAS. The board may subpoena a person to testify if the
14 person's testimony is necessary to carry out the powers, duties,
15 and functions of the board under this Act. The board may
16 administer oaths to persons who testify before the board. The
17 board may subpoena documents if the documents are necessary to
18 carry out the powers, duties, and functions of the board under this
19 Act. On application of the board, a district court shall enforce
20 the subpoena in the same manner as a subpoena issued by the court.

21 SECTION 16. DISTRICT PLAN. (a) Under Section 14 of this
22 Act, the board shall formulate a plan to control and mitigate
23 subsidence within the district. The plan shall accomplish this
24 purpose by the regulation of groundwater withdrawals to maintain
25 sufficient artesian pressure to control and mitigate subsidence.

26 (b) The plan shall specify, in as much detail as
27 practicable, the acts, procedures, performance, and avoidance that

1 are necessary to carry out the purposes of this Act.

2 (c) When formulating the plan, the board shall compile and
3 consider:

4 (1) a list of wells in the district that will be
5 subject to regulation under this Act;

6 (2) an accurate estimate of groundwater production
7 from each well or proposed well in the district;

8 (3) an accurate estimate of the amount of groundwater
9 that may be produced from each well and each area in the district
10 without causing long-term static water level decline and reduction
11 of artesian pressure that will lead to subsidence within the
12 district;

13 (4) an accurate estimate of the current and future
14 water needs of each well owner in the district;

15 (5) an accurate estimate of the groundwater production
16 capacity of each well in the district;

17 (6) a list of all available sources of water in the
18 district other than groundwater;

19 (7) the purpose for which the water is currently used
20 and for which it is proposed to be used in the future;

21 (8) information relating to formulation of a permit
22 system; and

23 (9) other information necessary to carry out the
24 management of groundwater in the district and to effectively and
25 expeditiously accomplish the purposes of this Act.

26 (d) The plan shall be formulated not later than 12 months
27 after the effective date of this Act.

1 (e) Not later than the 60th day after the date the plan is
2 formulated, the board shall review and adopt the plan.

3 (f) Before the plan is adopted, the board shall hold a
4 hearing under Section 14 of this Act to consider the proposed plan.

5 (g) After the hearing, the board shall make any changes it
6 considers necessary based on evidence and material presented at the
7 hearing and shall adopt the plan.

8 (h) The plan adopted under this section may be amended or
9 repealed. A new plan may be adopted in the manner provided in this
10 section for the adoption of the original plan. A plan, once
11 adopted, shall remain in effect until the adoption of a new plan.

12 SECTION 17. TEMPORARY REGULATION. During the period that
13 the board is formulating and adopting the plan under Section 16 of
14 this Act, the board shall adopt temporary rules and regulations
15 relating to the withdrawal of groundwater that are necessary to
16 control subsidence.

17 SECTION 18. PERMIT REQUIREMENT. (a) The owner of a well
18 located in the district must obtain a permit from the board to
19 withdraw groundwater.

20 (b) Owners of wells operating or being drilled on the
21 effective date of this Act must apply for a permit before January
22 1, 1990, and may continue to operate the well without a permit
23 until the application for a permit for the well is acted on by the
24 board.

25 (c) A permit issued under this Act is valid for a term of
26 one year from the date it is issued unless a longer or shorter term
27 is specified by the board. The board may issue a permit for a term

1 not to exceed five years in order to aid the district in the
2 effective and expeditious performance of its duties if issuance of
3 the permit does not impair the ability of the district to control
4 and prevent subsidence within the district.

5 (d) A permit may be revoked, suspended, modified, or amended
6 after notice and public hearing under Section 14 of this Act
7 whenever reasonably necessary to accomplish the purposes of this
8 Act.

9 (e) Permits may be renewed in the same manner as permits are
10 issued.

11 (f) To obtain a permit, a person must submit an application
12 and an application fee to the board. The application must state:

13 (1) the person's name;
14 (2) the person's address;
15 (3) the location and wellhead elevation of the well or
16 proposed well;

17 (4) the amount of water being produced or proposed to
18 be produced; and

19 (5) any other information required by the board as
20 necessary for the board to control and prevent subsidence in the
21 district.

22 (g) The board shall use the application fee to process
23 applications.

24 SECTION 19. NOTICE AND HEARING ON PERMIT. (a) The board
25 shall hold a hearing on each application.

26 (b) Not later than the 20th day before the date set for the
27 hearing, the board shall notify the applicant by certified mail,

1 return receipt requested, of the date, time, and location of the
2 hearing.

3 (c) Except as provided by this section, the hearing shall be
4 conducted and notice of hearing given under Section 14 of this Act.

5 (d) The board may consider as many applications for permits
6 as it considers necessary at a hearing.

7 SECTION 20. ISSUANCE OF PERMIT. (a) Not later than the
8 35th day after the date of the hearing, the board shall decide
9 whether or not to issue a permit and shall formulate the terms of
10 the permit, if issued.

11 (b) In deciding whether or not to issue a permit and in
12 setting the terms of the permit, the board shall consider:

13 (1) the purpose of this Act;

14 (2) the district plan;

15 (3) the quality, quantity, and availability of surface
16 water at prices competitive with those charged by suppliers of
17 surface water within the district; and

18 (4) the economic impact on the applicant of granting
19 or denying the permit or of the terms prescribed by a permit in
20 relation to the effect on subsidence that would result.

21 (c) The board shall grant a permit to an applicant whenever
22 the board finds on sufficient evidence that:

23 (1) there is no other adequate and available
24 substitute or supplemental source of surface water at prices
25 competitive with those charged by suppliers of surface water within
26 the district; and

27 (2) compliance with any provision of this Act, or any

1 rule or regulation of the district, will result in an arbitrary
2 taking of property or in the practical closing and elimination of
3 any lawful business, occupation, or activity, without sufficient
4 corresponding benefit or advantage to the people.

5 (d) If the board decides to issue the permit, the permit
6 must state the terms prescribed by the board.

7 (e) The permit must include the following:

8 (1) the name and address of the permittee;

9 (2) the location of the well;

10 (3) the date the permit begins and the date the permit
11 expires;

12 (4) conditions and restrictions placed on the
13 withdrawal of groundwater;

14 (5) adoption of water conservation measures for the
15 purpose of preventing waste of groundwater, including educational
16 programs; and

17 (6) any other terms and conditions necessary to
18 control and prevent subsidence.

19 SECTION 21. PERMIT NOT TRANSFERABLE. A permit issued under
20 this Act is not transferable unless the permittee and new owner
21 notify the district by certified mail, return receipt requested, of
22 the transfer of ownership of the well and provide the name and
23 address of the new owner. On receipt of that information, the
24 district shall issue an amended permit with the new owner of the
25 well as permittee. The remaining terms of the permit shall remain
26 unchanged.

27 SECTION 22. ANNUAL REPORTS. Before January 31 of each year,

1 each owner of a well who holds a permit under this Act shall submit
2 a report to the board stating the following:

- 3 (1) the person's name;
- 4 (2) the location of the well;
- 5 (3) the total amount of groundwater produced by the
6 well during the immediately preceding 12-month period;
- 7 (4) the total amount of groundwater produced by the
8 well during each separate month of the immediately preceding
9 12-month period;
- 10 (5) the purpose for which the groundwater was used;
- 11 (6) the date the permit expires; and
- 12 (7) any other information required by the board as
13 necessary for the board to control and prevent subsidence within
14 the district.

15 SECTION 23. BOARD INVESTIGATIONS. At least once each year
16 and at any other time that the board considers necessary, the board
17 may have its staff make a complete study of the groundwater
18 situation within the district and determine the water level, rates
19 of withdrawal, amounts of withdrawal, and other information
20 relating to the withdrawal of groundwater that may affect the
21 subsidence of land within the district.

22 SECTION 24. ANNUAL GROUNDWATER WITHDRAWAL DETERMINATION.
23 (a) Before March 31 of each year, the board shall hold a hearing
24 under Section 14 of this Act to determine the effects during the
25 preceding calendar year of groundwater withdrawal on the subsidence
26 of land within the district.

27 (b) At the hearing, the board shall consider the annual

1 reports submitted under Section 22 of this Act and the
2 investigation made under Section 23 of this Act in addition to
3 information represented by persons appearing before the board.

4 (c) After the hearing, the board shall consider all the
5 information presented to it and shall determine the groundwater
6 withdrawal in the district during the preceding calendar year and
7 shall make findings of the effects of groundwater withdrawal during
8 that year on the subsidence of land within the district. A report
9 of the board's findings and determinations shall be made available
10 for examination by any interested person.

11 SECTION 25. REGULATION OF SPACING AND PRODUCTION. (a) In
12 order to minimize as far as practicable the drawdown of the water
13 table and reduction of artesian pressure and to control and prevent
14 subsidence, the board may provide for the spacing of wells and
15 regulate the production of groundwater from the wells, taking into
16 consideration any relevant factors, including the economic impact
17 on well owners and the resulting effect on subsidence.

18 (b) Before issuing any rule, regulation, or order under this
19 section, the board shall set a hearing on the proposed rule,
20 regulation, or order and issue notice of the hearing. Notice must
21 be given and hearings conducted in the manner provided in Section
22 14 of this Act.

23 SECTION 26. REQUIRING WATER-METERING DEVICES. The board may
24 adopt orders after notice and hearing under Section 14 of this Act
25 requiring water-metering devices to be placed on wells.

26 SECTION 27. ACCESS TO PROPERTY. (a) To carry out technical
27 and other investigations necessary to the implementation of this

1 Act, the board and its agents and employees are entitled to access
2 to all property within the district.

3 (b) Before entering property for the purposes stated in
4 Subsection (a) of this section, the person seeking access shall
5 give notice to the owner of the property in the manner provided by
6 the rules and regulations of the district and shall present proper
7 credentials.

8 (c) The board, and its agents and employees who enter
9 private property, shall observe the establishment's rules and
10 regulations concerning safety, internal security, and fire
11 protection.

12 SECTION 28. MONITORING AND SUPERVISIONS OF DISTRICT. The
13 district may use subsidence compaction monitors, water level
14 observation wells, and other materials and equipment to determine
15 the amount of groundwater that may be produced while allowing the
16 rebound and stabilization of groundwater to a level that will halt
17 subsidence.

18 SECTION 29. RESEARCH AND STUDIES. The board may conduct
19 studies and research that it considers necessary to implement this
20 Act. The board may use the services of geologists, hydrologists,
21 registered professional engineers, or other expert personnel to
22 accomplish the purposes of this section.

23 SECTION 30. COOPERATION WITH AND ASSISTANCE OF OTHER
24 GOVERNMENTAL ENTITIES. The board may cooperate with and request
25 the assistance of the Texas Water Development Board, the
26 commission, the United States Geological Survey, local governments,
27 and other agencies of the United States and the State of Texas in

1 implementing this Act.

2 SECTION 31. CONTRACTS. The board may enter into contracts
3 with any person to carry out this Act.

4 SECTION 32. APPEAL OF DISTRICT ACTIONS TO A DISTRICT COURT.

5 (a) A person who is adversely affected by a rule, regulation,
6 order, or other official action of the board may appeal to a
7 district court in any county in the district.

8 (b) For the purposes of this section, "a person who is
9 adversely affected" includes a person residing in or owning real
10 property in the district whose residence or real property is
11 subsidizing. An appeal under this section must be filed not later
12 than the 45th day after the date the rule, regulation, order, or
13 other official action appealed from is promulgated.

14 (c) On written request of a person who is adversely
15 affected, the board shall make written findings and conclusions
16 with respect to a rule, regulation, order, or other official action
17 of the district. Not later than the 35th day after the request was
18 made, the board shall provide a certified copy of the findings and
19 conclusions to the person who made the request.

20 (d) In appeals taken under this section, the substantial
21 evidence rule shall be used to determine the legal propriety of a
22 rule, regulation, order, or other action of the board.

23 SECTION 33. APPEAL OF CERTAIN DISTRICT ACTIONS TO THE
24 COMMISSION. (a) As an alternative to the appeal provided by
25 Section 32 of this Act, a person who is granted a permit
26 authorizing withdrawal of groundwater in an amount less than
27 requested by that person may appeal the board's final decision to

1 the commission. The appeal shall be filed not later than the 60th
2 day after the date of the final order of the board.

3 (b) On written request of the person proposing to appeal an
4 order under Subsection (a) of this section, the board shall make
5 written findings and conclusions with respect to the order and
6 shall provide certified copies of the findings and conclusions to
7 the person making the request not later than the 35th day after the
8 date on which the written request is submitted to the board.

9 (c) The effect of a board order is stayed until the decision
10 of the commission in an appeal under this section is final.

11 (d) The review on appeal to the commission under this
12 section is governed by the substantial evidence rule as provided by
13 Section 19(e), Administrative Procedure and Texas Register Act
14 (Article 6252-13a, Vernon's Texas Civil Statutes).

15 (e) The commission may adopt necessary rules to carry out
16 the provisions of this section.

17 (f) An appeal from a final decision of the commission is to
18 a district court in Travis County and is governed by the
19 substantial evidence rule. Any party to the proceedings before the
20 commission may appeal a decision of the district court in the
21 manner provided for other civil actions, but a party appealing a
22 decision of a district court is not required to provide an appeal
23 bond.

24 (g) Under this section, the commission may adopt and assess
25 reasonable and necessary fees adequate to recover the costs of the
26 commission in administering this section.

27 SECTION 34. PERMIT FEE. (a) At the time a permit is issued

1 or renewed, the board shall collect from the permittee a permit
2 fee, established by schedule, based on the term of the permit and
3 the maximum amount of groundwater authorized by the board to be
4 withdrawn annually from the well.

5 (b) The fee schedule shall be determined by the board after
6 a hearing under Section 14 of this Act.

7 (c) The board shall use the funds obtained from permit fees
8 to cover the costs of issuing permits and performing other
9 functions under this Act.

10 SECTION 35. GRANTS, PURCHASES, GIFTS, LEASES, ETC. On
11 behalf of the district, the board may:

12 (1) purchase, lease, own, convey, and dispose of
13 property both inside and outside the district necessary or
14 convenient to the exercise of the powers, duties, and functions of
15 the board under this Act;

16 (2) accept grants, gifts, and devises of property;

17 (3) construct, purchase, lease, or acquire in some
18 other manner any material or property necessary to carry out this
19 Act; and

20 (4) accept gifts, grants, loans, or other
21 distributions of money.

22 SECTION 36. OWNERSHIP OF GROUNDWATER. The ownership and
23 rights of the owner of land and his lessees and assigns in
24 groundwater are recognized and nothing in this Act shall be
25 construed as depriving or divesting the owner or his lessees and
26 assigns of the ownership or rights, subject to rules and
27 regulations and orders and other official actions of the district.

1 SECTION 37. SURFACE WATER LAWS NOT APPLICABLE. The laws and
2 administrative rules relating to the use of surface water do not
3 apply to groundwater.

4 SECTION 38. SALE AND DISTRIBUTION OF WATER PROHIBITED. The
5 district may not sell or distribute surface water or groundwater
6 for any purpose.

7 SECTION 39. EXCLUSIONS. This Act does not apply to:

8 (1) wells regulated under Chapter 27, Water Code;

9 (2) shallow wells producing water solely to prevent
10 hazardous sand boils, dewater surface construction sites, or
11 relieve hydrostatic uplift on permanent structures and not used to
12 provide water for human consumption, agricultural use,
13 manufacturing or industrial use, or water injection;

14 (3) shallow wells producing water solely for
15 groundwater quality analysis and for monitoring migration of
16 subsurface contaminants or pollution and not used to provide water
17 for human consumption, agricultural use, manufacturing or
18 industrial uses, or water injection;

19 (4) shallow wells producing water solely for recovery
20 of contamination or pollution and not used to provide water for
21 human consumption, agricultural use, manufacturing or industrial
22 use, or water injection;

23 (5) persons owning only one well within the district
24 if the well has a casing with an inside diameter of five inches or
25 less; and

26 (6) on application for an exemption on a form
27 prescribed by the board, other wells with a casing that has an

1 inside diameter of five inches or less that serve a single-family
2 dwelling and have a negligible effect on subsidence within the
3 district.

4 SECTION 40. DISBURSEMENT OF FUNDS. The district's money may
5 be disbursed by check, draft, order, or other instruments, signed
6 by the person or persons authorized to do so by the board's bylaws
7 or by resolution of the board.

8 SECTION 41. ACCOUNTS AND INDEPENDENT AUDIT. (a) The
9 district shall keep a complete system of accounts and shall have
10 its affairs audited each year by an independent certified public
11 accountant or a firm of independent certified public accountants of
12 recognized integrity and ability. The district shall pay for the
13 audit.

14 (b) The board shall deliver a copy of the audit to the
15 commissioners court of each county in the district. The board
16 shall keep one copy of the audit at the district office, open to
17 inspection by any interested person during normal office hours.

18 SECTION 42. DEPOSITORY BANKS. (a) The board shall
19 designate one or more banks within the district to serve as
20 depository for the funds of the district. Except as provided by
21 Subsection (b) of this section, all funds of the district shall be
22 deposited in a depository bank.

23 (b) To the extent provided in a trust indenture, bond
24 proceeds and funds pledged to pay bonds may be deposited with the
25 trustee bank named in the trust indenture and shall be remitted to
26 the bank of payment for the payment of the principal of and
27 interest on the bonds.

1 (c) To the extent that funds in a depository bank or a
2 trustee bank are not invested or insured by the Federal Deposit
3 Insurance Corporation, they shall be secured in the manner provided
4 by law for the security of county funds.

5 (d) Before designating a depository bank, the board shall
6 issue a notice stating the time and place the board will meet for
7 that purpose and shall invite the banks in the district to submit
8 applications to be designated depositories. The term of service
9 for depositories shall be prescribed by the board. The board shall
10 publish the notice once in a newspaper of general circulation in
11 the district or mail a copy of the notice to each bank in the
12 district.

13 (e) The board shall consider the management and condition of
14 the banks that apply and shall designate as depositories the bank
15 or banks that offer the most favorable terms and conditions for
16 handling of the funds of the district and that the board finds have
17 proper management and are in condition to warrant handling of
18 district funds.

19 (f) Membership on the board of an officer or director of a
20 bank does not disqualify the bank from being designated as
21 depository.

22 (g) If no applications are received before the meeting, the
23 board shall designate a bank or banks within or outside the
24 district on terms and conditions it finds advantageous to the
25 district.

26 SECTION 43. PENALTIES. (a) If a person has violated, is
27 violating, or is threatening to violate a provision of this Act or

1 a rule, regulation, permit, or other order of the district, the
2 district may bring a civil action in a district court within the
3 district for an injunction to restrain the person from continuing
4 the violation or the threat of violation, for a civil penalty of
5 not less than \$50 nor more than \$5,000 for each violation and for
6 each day of violation, or for both injunctive relief and civil
7 penalty.

8 (b) At the request of the district, or the general manager
9 authorized by the board, the attorney general shall institute the
10 action. However, the district in its sole discretion may employ
11 attorneys of its choice to institute the action.

12 (c) The board is not required to post bond or other security
13 with the court under this section.

14 (d) On application for injunctive relief and a finding that
15 a person is violating or threatening to violate any provision of
16 this Act or any rule, permit, or other order of the district, the
17 district court shall grant any injunctive relief the facts may
18 warrant.

19 SECTION 44. LEGISLATIVE FINDING OF AUTHORITY. The
20 legislature finds that the requirements of Article XVI, Sections
21 59(d) and (e), of the Texas Constitution have been performed and
22 accomplished and that the legislature has the power and authority
23 to enact this Act.

24 SECTION 45. EMERGENCY. The importance of this legislation
25 and the crowded condition of the calendars in both houses create an
26 emergency and an imperative public necessity that the
27 constitutional rule requiring bills to be read on three several

H.B. No. 2819

1 days in each house be suspended, and this rule is hereby suspended,
2 and that this Act take effect and be in force from and after its
3 passage, and it is so enacted.



State of Texas
House of Representatives
Austin

JIM TALLAS
STATE REPRESENTATIVE
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#1 Sugar Creek Center Blvd.
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Sugar Land, Texas 77478
(713) 242-8500

April 19, 1989

The Honorable Terral Smith
Chairman, Committee on Natural Resources
House of Representatives
Austin, Texas

Dear Mr. Chairman:

In response to your request for an Author's Fiscal Statement on HB 2819 relating to the creation, powers, duties, administration and operations of the Fort Bend County Subsidence District, I have determined the following:

The costs to local governments for the creation of this district appear to be minimal. Each of the member cities may incur slight administrative costs for processing the mayoral appointments to the board of directors.

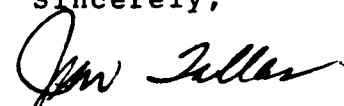
The costs to the district of developing a management plan, adopting temporary rules and conducting hearings will be financed by permit fees, as well the ongoing operating costs of the districts.

FISCAL YEAR PROJECTIONS

1990...Minimal
1991...same as 1990 anticipated
1992...same as 1990 anticipated

Please let me know if I can provide further information to you.

Sincerely,


Jim Tallas

JT/rc

COMMITTEES: State Affairs, Chairman of
Budget and Oversight
Appropriations
Calendars



TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner



Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

April 19, 1989

The Honorable Gib Lewis
Speaker of the House of Representatives
P.O. Box 2910
Austin, Texas 78769

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Sec. 36.

Bill No. (H.B. 2819) - Proposed creation of a conservation and reclamation district pursuant to Article III, S52 and Article XVI, S59(d), Texas Constitution: Fort Bend Subsidence District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments on items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

A handwritten signature in cursive script that reads "Allen Beinke".

Allen Beinke
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King, Secretary of the Senate
Representative Terral Smith, Chairman,
House Natural Resources Committee
Senator Bill Sims, State Senate
Representative Jim Tallas, House of Representatives

A handwritten number "2" in cursive script.

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATED TO THE FORT BEND
SUBSIDENCE DISTRICT

Water Development Policy Impact Statements for House Bill 2819 (H.B. 2819) relating to the creation, administration, powers, duties, operation, and financing of the Fort Bend Subsidence District follow.

Wells located within the limits of this proposed district which covers all of Fort Bend County, utilize the Gulf Coast aquifer. During the period from 1975-1985, excessive water-level declines occurred primarily in the southeastern one-half of the county, with up to 40 feet of water-table decline taking place. During this same time, between 50-100 feet of artesian decline also occurred in the north-central part of the county. Excessive pumpage with its associated water-level declines, triggers land-surface subsidence. This is hydrogeologic justification for the district. The Harris-Galveston Coastal Subsidence District which encompasses all of Harris and Galveston Counties, adjoins the proposed district on the northeast. Fort Bend County lies within a state designated critical area.

H.B. 2819 provides for the regulation of the withdrawal of groundwater within the district to prevent subsidence which contributes to or precipitates flooding, inundation, or overflow of areas, including rising waters resulting from storms or hurricanes. The district shall exercise its rights, powers, and duties in a manner which will effectively and expeditiously accomplish the purpose of the act. The district is proposed to be created under Article XVI, Section 59, of the Texas Constitution and as a conservation and reclamation district. Specific impact statements related to required headings follow:

- 1) **Population projections** - The proposed District is coterminous with the boundaries of Fort Bend County. The Board's current projected

population for Fort Bend County indicates an anticipated increase in population ranging from 154,831 to 208,720 over the next 20 years.

- 2) **District finances** - The district shall collect from a permittee (owner of a well other than specific types which are excluded) a permit fee, established by a schedule set by the board following a hearing, based on the term of the permit (one to five years) and the maximum amount of ground water authorized to be withdrawn annually from the well. Permit fee funds obtained shall be used to cover the costs of issuing permits and performing other district functions. The district may also accept grants, gifts, devises of property (which it may dispose of), and other distributions of money.
- 3) **Board of directors & powers** - This proposed district is to be governed by a board of 13 directors. Six of these are to be composed of one director each from the cities of Houston, Missouri City, Stafford, Sugar Land, Rosenberg, and Richmond who are to be appointed by the mayor of the respective cities. Five of these shall serve terms expiring January 31, 1991. One member's term shall expire January 31, 1990. Two directors representing agricultural interests who live in an unincorporated area, and four directors (two each) will represent industrial and business interests. Four of the six shall serve terms expiring January 31, 1991. The terms of the other two shall expire January 31, 1990. Additionally, one director will be appointed by all of the mayors of the other incorporated cities of the county. Except as provided for the one city member and two agricultural, industrial, or business members whose terms expire in January 31, 1989, the rest shall serve terms of two years. In the event an adjoining county is added to the district, four additional members will be added to the board. Two of these members will be chosen by the commissioners court of the affected county and one member each will be chosen by the mayors of the two cities of the affected county having the largest populations according to the most recent federal decennial census. The four new members shall draw lots to establish staggered two year terms.

Since the bill creates a ground-water subsidence district under Article XVI, Section 59 of the Texas Constitution, and powers relating to Chapters 50, 51, and 52 of the Texas Water Code are not included, its powers are limited to those specifically set out in the bill. The bill requires that the board shall administer this act to provide for the regulation of the withdrawal of ground water within the district to prevent subsidence which contributes to or precipitates flooding, inundation, or overflow of areas, including rising waters resulting from storms or hurricanes. The district shall administer and enforce the terms of this act and shall exercise its rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of the act. Specifically, the district shall control the withdrawals of ground water with reasonable rules, regulations, and orders. These shall consider: 1) availability of surface water, 2) the economic impact on the community, 3) the degree and effect of subsidence on the surface of the land, 4) differing topographical and geophysical characteristics of the land, and 5) the board has all other powers necessary or convenient to carry out its responsibilities and achieve the act's purposes.

The district may sue and be sued in the courts in the name of the district by and through the board. The board may employ attorneys to represent the district in district and appellate courts of the state and in the courts of the United States. The district may hold hearings to receive testimony, evidence, exhibits, and other information. The board has the power to subpoena a person or documents and to enforce the subpoena. It also has the power to administer oaths necessary to carry out the powers, duties, and functions of the board.

The board is empowered to formulate a plan within 12 months to control and prevent subsidence; adopt temporary rules during plan development; require well permits for one to five years and revoke, suspend, or modify these permits; to conduct required hearings; prepare annual reports relating to the number of wells and their respective pumpage; make annual studies of the ground-water situation including determination of the effects of ground-water withdrawal on subsidence;

regulate well spacing and pumpage; require metering devices; access property to conduct investigations; use monitoring devices to determine water-level declines and land-surface compaction; to cooperate with and obtain assistance from other governmental entities; to conduct research and studies; to enter into contracts with any person; disburse funds; and to assess penalties for violations of district regulations.

The district's powers do not apply to surface water and it may not sell or distribute surface or ground water. The act also recognizes private ownership of ground water. Additionally, the district may not control certain types of wells specifically set out in the bill. These include wells with a casing having an inside diameter of five inches or less that serve a single-family dwelling which have a negligible effect on subsidence.

- 4) **Effect on Texas Water Development Board's water plan** - The Board finds that creation of a proposed subsidence control district is consistent with the State Water Plan objective of local control of groundwater to prevent the effects of subsidence in southeastern Texas. The Board has provided regional water supply planning grant assistance to improve the management of groundwater and promote conversion to surface water supplies in most of Fort Bend County, and the results of the Board-funded planning projects indicate a need to better manage groundwater resources in the area.
- 5) **Texas Water Commission's supervision** - This proposed district will be under the "continuing right of supervision of the State of Texas" by the Commission as set out by Section 12.081 of the Texas Water Code. It is also subject to applicable general reporting provision requirements for all districts as set out in Subchapter A, Sections 50.001 through 50.106, Texas Water Code.
- 6) **Eminent domain power** - This district does not have this power.

- 7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the district; however, Section 4 of the bill sets out the procedure for adding adjoining counties to the district.
- 8) **Adequacy of the boundary description** - The district includes all of the area located within Fort Bend County, therefore, the boundary description is adequate. At present there are a total of 125 water-related districts in existence within the county. Additionally, there are four municipal utility districts on which a hearing is pending. A breakout of those districts now in existence, by category, are as follows: 108 municipal utility, 10 levee improvement/flood control, 6 water control and improvement, and 1 drainage. These are all located in the northern one-half of the county and north of the community of Pleak. Many of the municipal utility districts undoubtedly have wells which would be required to be permitted, subjected to regulation of spacing and production, and would be required to pay a permit fee based on the term of the permit and the maximum amount of ground water authorized to be withdrawn annually from the well.
- 9) **Comments on powers and duties different from similar types of districts** This district has the normal powers and duties accorded to a subsidence district and the bill goes into great detail on its operation. The bill requires the formulation and review of a management plan within the brief period of 12 months after the effective date of the bill. This does not allow sufficient time for this project. Since the district may contract with any person to perform the duties of general manager and it may enter into contracts with any person, this may allow it to contract with the Harris-Galveston Coastal Subsidence District for general management services and the development of the required management plan.

For clarification of the bill, the following changes are recommended:

- a) on page 7, lines 22 and 26, the word "board" should be changed to general manager; b) on page 10, lines 22 and 25, the word "prevent" should be changed to mitigate; and c) on page 11, line 10, the phrase

"drawdown of the water table" should be changed to long-term static water-level decline.

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner



Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

April 19, 1989

The Honorable William P. Clements, Jr.
Governor of Texas

The Honorable William P. Hobby
Lieutenant Governor and President of the Senate

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution.

Bill No. (H.B. 2819) - Proposed creation of a conservation and reclamation district pursuant to Article III, S52 and Article XVI, S59(d), Texas Constitution: Fort Bend Subsidence District

Dear Governor Clements:

The following attachment is submitted in response to the above-referenced constitutional requirements. Items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

A handwritten signature in cursive script that reads "Allen Beinke".

Allen P. Beinke
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King, Secretary of the Senate
Representative Terral Smith, Chairman,
House Natural Resources Committee
Speaker of the House Gib Lewis, House of Representatives
Senator H. Tati Santiesteban, Chairman,
Senate Natural Resources Committee
Senator Bill Sims, State Senate
Representative Jim Tallas, House of Representatives

REQUEST FOR LOCAL & UNCONTESTED CALENDAR
PLACEMENT

Hon. Bill Sims, Chairman
Administration Committee

Sir:

Notice is hereby given that HB 2819, by: Tallas-Brown
was heard by the Committee on Natural Resources on 5-22-1989
and reported out with the recommendation that it be placed on the Local and Uncontested
Calendar.

Steve M. Smith
Clerk of the reporting committee

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF THE BILL OR RESOLUTION, WHICH ALONG WITH 14 ADDITIONAL COPIES OF THE BILL OR RESOLUTION SHOULD BE DELIVERED TO THE OFFICE OF THE COMMITTEE ON ADMINISTRATION, ROOM 419. PLEASE CALL 3-0350 IF YOU HAVE ANY QUESTIONS. **DEADLINE FOR SUBMITTING BILLS FOR THE LOCAL CALENDAR IS 5:00 P.M. FRIDAY.**

SENATE FAVORABLE COMMITTEE REPORT

Lt. Governor William P. Hobby
President of the Senate

³
5-22-89
(date)/(time)

Sir:

We, your Committee on NATURAL RESOURCES to which was referred
HB 2819 by TALLIS have on 5-22-89, 19____, had the same
(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation (s) that it

- ☒ do pass and be printed
☐ do pass and be ordered not printed
☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no
A revised fiscal note was requested. ☐ yes ☐ no
An actuarial analysis was requested. ☐ yes ☐ no
Considered by subcommittee. ☐ yes ☐ no

Senate Sponsor of House Measure BROWN

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
Santiesteban, Chairman	<input checked="" type="checkbox"/>			
Lyon, Vice Chairman				<input checked="" type="checkbox"/>
Armbrister	<input checked="" type="checkbox"/>			
Bivins				<input checked="" type="checkbox"/>
Brown	<input checked="" type="checkbox"/>			
Carriker	<input checked="" type="checkbox"/>			
Montford				<input checked="" type="checkbox"/>
Ratliff	<input checked="" type="checkbox"/>			
Sims	<input checked="" type="checkbox"/>			
Uribe				<input checked="" type="checkbox"/>
Zaffirini	<input checked="" type="checkbox"/>			
TOTAL VOTES	<u>7</u>			<u>4</u>

Steve M. Smith
COMMITTEE CLERK CHAIRMAN

1 By: Tallas (Senate Sponsor - Brown) H.B. No. 2819
2 (In the Senate - Received from the House May 17, 1989;
3 May 18, 1989, read first time and referred to Committee on Natural
4 Resources; May 23, 1989, reported favorably by the following vote:
5 Yeas 7, Nays 0; May 23, 1989, sent to printer.)

6 COMMITTEE VOTE

	Yea	Nay	PNV	Absent
7 Santiesteban	x			
8 Lyon				x
9 Armbrister	x			
10 Bivins				x
11 Brown	x			
12 Carriker	x			
13 Montford				x
14 Ratliff	x			
15 Sims	x			
16 Uribe				x
17 Zaffirini	x			

19 A BILL TO BE ENTITLED
20 AN ACT

21 relating to the creation, administration, powers, duties, and
22 operations of the Fort Bend Subsidence District; providing for
23 civil penalties.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

25 SECTION 1. PURPOSE AND INTENT. (a) The purpose of this Act
26 is to provide for the regulation of the withdrawal of groundwater
27 within the district created by this Act to prevent subsidence that
28 contributes to or precipitates flooding, inundation, or overflow of
29 areas within the district, including rising waters resulting from
30 storms or hurricanes.

31 (b) It is the intent of the legislature that the district
32 created by this Act shall administer and enforce the terms of this
33 Act and shall exercise its rights, powers, and duties in a manner
34 that will effectively and expeditiously accomplish the purposes of
35 this Act.

36 SECTION 2. DEFINITIONS. In this Act:

37 (1) "Person" includes a corporation, individual,
38 organization, government, governmental subdivision or agency,
39 business trust, estate, trust, partnership, or association, and any
40 other legal entity.

41 (2) "District" means the Fort Bend Subsidence
42 District.

43 (3) "Board" means the board of directors of the Fort
44 Bend Subsidence District.

45 (4) "Groundwater" means water existing below the
46 earth's surface within the district, but does not include water
47 produced with oil in the production of oil and gas.

48 (5) "Well" means a facility, device, or method used to
49 withdraw groundwater.

50 (6) "Withdraw" means the act of extracting groundwater
51 by pumping or some other method.

52 (7) "Drill" means drilling, equipping, or completing
53 wells or substantially altering the size of wells or well pumps.

54 (8) "Subsidence" means the lowering in elevation of
55 the surface of land by the withdrawal of groundwater.

56 (9) "Commission" means the Texas Water Commission.

57 SECTION 3. CREATION. Under Article XVI, Section 59, of the
58 Texas Constitution a conservation and reclamation district is
59 created to be known as the Fort Bend Subsidence District. The
60 district is a governmental agency, a political subdivision of the
61 state, and a body politic and corporate.

62 SECTION 4. BOUNDARIES. (a) The district includes all of
63 the territory within Fort Bend County.

64 (b) An adjoining county may be added to the district on
65 application of the commissioners court of the adjoining county and
66 compliance with the applicable provisions of Sections

1 55.730-55.744, Water Code.

2 (c) The proposition on the ballots for an election to add an
3 adjoining county to the district shall be printed to permit voting
4 for or against the proposition: "Addition of _____ County to
5 the Fort Bend Subsidence District."

6 (d) A county added to the district under this section is
7 subject to the jurisdiction of the board and this Act.

8 SECTION 5. BOARD OF DIRECTORS. (a) The district is
9 governed by a board of 13 directors.

10 (b) One director from each of the following cities in Fort
11 Bend County shall be appointed by the mayor of the respective city:

- 12 (1) Houston;
- 13 (2) Missouri City;
- 14 (3) Stafford;
- 15 (4) Sugar Land;
- 16 (5) Rosenberg; and
- 17 (6) Richmond.

18 (c) The Commissioners Court of Fort Bend County shall
19 appoint two directors who represent agricultural interests and live
20 in an unincorporated area, two directors who represent industrial
21 interests, and two directors who represent business interests.

22 (d) One director shall be appointed by the mayors of the
23 incorporated cities within the county not listed in Subsection (b)
24 of this section.

25 (e) If an adjoining county is added to the district, four
26 members shall be added to the board. Two members shall be chosen
27 by the commissioners court of the county added to the district.
28 One member each shall be chosen by the mayors of the two cities in
29 the county added to the district that have the largest populations
30 according to the most recent federal decennial census. The four
31 new members shall draw lots to establish staggered terms of office.

32 (f) All directors must be residents of and qualified voters
33 in the district.

34 (g) The county judge of Fort Bend County shall set a date,
35 time, and place for a meeting of the persons designated in
36 Subsections (b), (c), and (d) of this section to choose the initial
37 directors. The county judge shall choose a date not later than the
38 30th day after the effective date of this Act. The county judge
39 shall mail notices of the meeting to the persons designated to
40 choose the directors. The county judge shall appoint a person to
41 preside at the meeting. The directors chosen at the meeting shall
42 assume their positions not later than the fifth day after the date
43 of the meeting.

44 (h) Selection of subsequent directors shall be made on the
45 second Monday in January at 11 a.m. in the district's main office.
46 Not later than the 20th day before the date of the meeting, the
47 district shall mail notice of the meeting to the persons designated
48 in Subsections (b), (c), (d), and (e) of this section to choose
49 directors.

50 (i) The terms of office for the initial directors shall be
51 as follows:

52 (1) five members chosen under Subsection (b) of this
53 section and four members chosen under Subsection (c) of this
54 section shall serve for terms expiring January 31, 1991; and

55 (2) one member chosen under Subsection (b) of this
56 section, two members chosen under Subsection (c) of this section,
57 and the member chosen under Subsection (d) of this section shall
58 serve for terms expiring January 31, 1990.

59 (j) Except as provided by Subsection (i) of this section,
60 members of the board shall serve for terms of two years.

61 (k) At the time the county judge of Fort Bend County sets
62 the meeting required by Subsection (g) of this section, the county
63 judge shall set the date, time, and place for the initial meeting
64 of the board. Not later than the 20th day before the date of the
65 initial meeting of the board, the county judge shall mail notices
66 of the meeting to the initial directors.

67 (l) At the initial meeting of the board and each year at the
68 first meeting after new directors take office, the directors shall
69 select a chairman, a vice-chairman, and a secretary. The chairman,
70 vice-chairman, and secretary shall serve at the pleasure of the

board and may be removed and replaced by a majority of the board at any time.

(m) The chairman shall preside over meetings of the board. If the chairman is not present, the vice-chairman shall preside.

(n) Each director is entitled to receive \$50 a day for each day he is engaged in the exercise of his duties under this Act and necessary travel and other expenses incurred in the exercise of his duties under this Act. A member of the board may not receive compensation and travel and other expenses for more than 120 days in any one calendar year.

(o) If a vacancy occurs on the board, the person or persons designated in Subsection (b), (c), (d), or (e) of this section to appoint a director for the position that is vacated shall appoint a director to serve the unexpired term.

(p) Each director shall take the oath of office prescribed by law for county commissioners and shall execute a bond in the amount of \$5,000, payable to the district, conditioned on the faithful performance of his duties. The district shall pay for the bond.

(q) A majority of the directors constitute a quorum for transaction of business of the district. An official act of the board is not valid without the affirmative vote of a majority of the directors.

(r) The board shall hold one regular meeting each month at a time set by the board. The board may hold special meetings at the call of the chairman or on the written request of at least three directors.

SECTION 6. POWERS AND DUTIES IN GENERAL. (a) The board shall administer this Act as provided by Section 1 of this Act.

(b) Withdrawals of groundwater covered by this Act are subject to reasonable rules, regulations, and orders adopted by the board.

(c) In adopting rules, regulations, and orders, the board shall consider the following factors:

- (1) availability of surface water;
- (2) economic impact on persons and the community;
- (3) degree and effect of subsidence on the surface of the land; and
- (4) differing topographical and geophysical characteristics of the land.

(d) The board has all other powers necessary or convenient to carry out its responsibilities and achieve the purpose of this Act.

SECTION 7. GENERAL MANAGER. (a) The board may employ a general manager who shall be the chief administrative officer of the district. The board may delegate to the general manager the authority to manage and operate the affairs of the district subject only to orders of the board.

(b) The duties of the general manager include:

- (1) administration of the orders of the board;
- (2) coordination with state, federal, and local agencies;
- (3) supervision of the development of plans and programs of the district;
- (4) preparation and submission of the annual budget to the board; and
- (5) other duties assigned by the board.

(c) The general manager shall execute a bond in an amount determined by the board, payable to the district, conditioned on the faithful performance of his duties. The district shall pay for the bond.

(d) The district may contract with any person to perform the duties of general manager.

SECTION 8. EMPLOYEES. (a) The board shall employ personnel necessary for the proper handling of the business and operation of the district and may employ attorneys, bookkeepers, engineers, and other expert and specialized personnel that are considered necessary. The board shall determine the compensation to be paid by the district to the employees.

(b) The board shall determine the term of office of and the

1 compensation to be paid to the general manager. The board may
2 discharge the general manager by a majority vote. The board may
3 discharge employees of the district.

4 (c) The board shall require an employee who collects, pays,
5 or handles funds of the district to furnish good and sufficient
6 bond, payable to the district, for a sufficient amount to safeguard
7 the district. The bond shall be conditioned on the faithful
8 performance of the employee's duties and on accounting for all
9 funds and property of the district under the employee's control.
10 The district shall pay for the bond.

11 SECTION 9. DISTRICT OFFICE. The board shall maintain its
12 principal office for conducting the business of the district. The
13 office must be located inside the district.

14 SECTION 10. MINUTES AND RECORDS OF DISTRICT. The district
15 shall keep a true and complete account of the board's meetings and
16 proceedings and shall preserve the board's minutes, contracts,
17 records, notices, accounts, and receipts in a fireproof vault or
18 safe. The board's minutes, contracts, records, notices, accounts,
19 and receipts are the property of the district and are subject to
20 public inspection.

21 SECTION 11. SUITS. The district may sue and be sued in the
22 courts of this state in the name of the district by and through the
23 board. If requested by the district, the attorney general shall
24 represent the district in the district and appellate courts of this
25 state and in the courts of the United States. The board, in its
26 sole discretion, may employ attorneys to represent the district in
27 the district and appellate courts of this state and in the courts
28 of the United States. All courts shall take judicial notice of the
29 creation of the district and of its boundaries.

30 SECTION 12. SEAL. The board shall adopt a seal.

31 SECTION 13. RULES AND REGULATIONS. (a) After notice and
32 hearing under Section 14 of this Act, the board shall adopt and
33 enforce rules and regulations that are designed to expeditiously
34 and effectively accomplish the provisions and purposes of this Act,
35 including rules governing procedure before the board.

36 (b) The board shall compile its rules and regulations in a
37 book and make the book available for use and inspection at the
38 district's principal office. The district shall provide copies of
39 its rules and regulations on payment of the cost of reproduction.

40 SECTION 14. HEARINGS. (a) At regular meetings of the
41 board, the board shall set the dates, times, and locations for
42 hearings to be held under this Act.

43 (b) Not later than the 20th day before the date set for a
44 hearing, the district shall deliver or mail notice of the hearing
45 under this section to each county and municipal government within
46 the district and to each person that the board believes has an
47 interest in the subject matter to be dealt with at the hearing.

48 (c) Not later than the 20th day before the date set for a
49 hearing, the district shall publish notice of the hearing under
50 this section once in a newspaper of general circulation in each
51 county within the district.

52 (d) Not later than the 20th day before the date set for a
53 hearing, the district shall post the notice of the hearing under
54 this section at the county courthouse of each county within the
55 district in the place where notices are usually posted.

56 (e) Any person who desires to appear at a hearing and
57 present testimony, evidence, exhibits, or other information may do
58 so in person, by counsel, or both.

59 (f) The board may hold hearings at any location within the
60 district.

61 (g) The board may recess a hearing from day to day.

62 (h) The board may use hearing examiners to hear any subject
63 set for the hearing. Procedures for use of hearing examiners shall
64 be provided in the rules and regulations.

65 SECTION 15. COMPELLING TESTIMONY, SWEARING WITNESSES, AND
66 SUBPOENAS. The board may subpoena a person to testify if the
67 person's testimony is necessary to carry out the powers, duties,
68 and functions of the board under this Act. The board may
69 administer oaths to persons who testify before the board. The
70 board may subpoena documents if the documents are necessary to

1 carry out the powers, duties, and functions of the board under this
2 Act. On application of the board, a district court shall enforce
3 the subpoena in the same manner as a subpoena issued by the court.

4 SECTION 16. DISTRICT PLAN. (a) Under Section 14 of this
5 Act, the board shall formulate a plan to control and mitigate
6 subsidence within the district. The plan shall accomplish this
7 purpose by the regulation of groundwater withdrawals to maintain
8 sufficient artesian pressure to control and mitigate subsidence.

9 (b) The plan shall specify, in as much detail as
10 practicable, the acts, procedures, performance, and avoidance that
11 are necessary to carry out the purposes of this Act.

12 (c) When formulating the plan, the board shall compile and
13 consider:

14 (1) a list of wells in the district that will be
15 subject to regulation under this Act;

16 (2) an accurate estimate of groundwater production
17 from each well or proposed well in the district;

18 (3) an accurate estimate of the amount of groundwater
19 that may be produced from each well and each area in the district
20 without causing long-term static water level decline and reduction
21 of artesian pressure that will lead to subsidence within the
22 district;

23 (4) an accurate estimate of the current and future
24 water needs of each well owner in the district;

25 (5) an accurate estimate of the groundwater production
26 capacity of each well in the district;

27 (6) a list of all available sources of water in the
28 district other than groundwater;

29 (7) the purpose for which the water is currently used
30 and for which it is proposed to be used in the future;

31 (8) information relating to formulation of a permit
32 system; and

33 (9) other information necessary to carry out the
34 management of groundwater in the district and to effectively and
35 expeditiously accomplish the purposes of this Act.

36 (d) The plan shall be formulated not later than 12 months
37 after the effective date of this Act.

38 (e) Not later than the 60th day after the date the plan is
39 formulated, the board shall review and adopt the plan.

40 (f) Before the plan is adopted, the board shall hold a
41 hearing under Section 14 of this Act to consider the proposed plan.

42 (g) After the hearing, the board shall make any changes it
43 considers necessary based on evidence and material presented at the
44 hearing and shall adopt the plan.

45 (h) The plan adopted under this section may be amended or
46 repealed. A new plan may be adopted in the manner provided in this
47 section for the adoption of the original plan. A plan, once
48 adopted, shall remain in effect until the adoption of a new plan.

49 SECTION 17. TEMPORARY REGULATION. During the period that
50 the board is formulating and adopting the plan under Section 16 of
51 this Act, the board shall adopt temporary rules and regulations
52 relating to the withdrawal of groundwater that are necessary to
53 control subsidence.

54 SECTION 18. PERMIT REQUIREMENT. (a) The owner of a well
55 located in the district must obtain a permit from the board to
56 withdraw groundwater.

57 (b) Owners of wells operating or being drilled on the
58 effective date of this Act must apply for a permit before January
59 1, 1990, and may continue to operate the well without a permit
60 until the application for a permit for the well is acted on by the
61 board.

62 (c) A permit issued under this Act is valid for a term of
63 one year from the date it is issued unless a longer or shorter term
64 is specified by the board. The board may issue a permit for a term
65 not to exceed five years in order to aid the district in the
66 effective and expeditious performance of its duties if issuance of
67 the permit does not impair the ability of the district to control
68 and prevent subsidence within the district.

69 (d) A permit may be revoked, suspended, modified, or amended
70 after notice and public hearing under Section 14 of this Act

whenever reasonably necessary to accomplish the purposes of this Act.

(e) Permits may be renewed in the same manner as permits are issued.

(f) To obtain a permit, a person must submit an application and an application fee to the board. The application must state:

- (1) the person's name;
- (2) the person's address;
- (3) the location and wellhead elevation of the well or proposed well;
- (4) the amount of water being produced or proposed to be produced; and
- (5) any other information required by the board as necessary for the board to control and prevent subsidence in the district.

(g) The board shall use the application fee to process applications.

SECTION 19. NOTICE AND HEARING ON PERMIT. (a) The board shall hold a hearing on each application.

(b) Not later than the 20th day before the date set for the hearing, the board shall notify the applicant by certified mail, return receipt requested, of the date, time, and location of the hearing.

(c) Except as provided by this section, the hearing shall be conducted and notice of hearing given under Section 14 of this Act.

(d) The board may consider as many applications for permits as it considers necessary at a hearing.

SECTION 20. ISSUANCE OF PERMIT. (a) Not later than the 35th day after the date of the hearing, the board shall decide whether or not to issue a permit and shall formulate the terms of the permit, if issued.

(b) In deciding whether or not to issue a permit and in setting the terms of the permit, the board shall consider:

- (1) the purpose of this Act;
- (2) the district plan;
- (3) the quality, quantity, and availability of surface water at prices competitive with those charged by suppliers of surface water within the district; and
- (4) the economic impact on the applicant of granting or denying the permit or of the terms prescribed by a permit in relation to the effect on subsidence that would result.

(c) The board shall grant a permit to an applicant whenever the board finds on sufficient evidence that:

- (1) there is no other adequate and available substitute or supplemental source of surface water at prices competitive with those charged by suppliers of surface water within the district; and

- (2) compliance with any provision of this Act, or any rule or regulation of the district, will result in an arbitrary taking of property or in the practical closing and elimination of any lawful business, occupation, or activity, without sufficient corresponding benefit or advantage to the people.

(d) If the board decides to issue the permit, the permit must state the terms prescribed by the board.

(e) The permit must include the following:

- (1) the name and address of the permittee;
- (2) the location of the well;
- (3) the date the permit begins and the date the permit expires;
- (4) conditions and restrictions placed on the withdrawal of groundwater;
- (5) adoption of water conservation measures for the purpose of preventing waste of groundwater, including educational programs; and
- (6) any other terms and conditions necessary to control and prevent subsidence.

SECTION 21. PERMIT NOT TRANSFERABLE. A permit issued under this Act is not transferable unless the permittee and new owner notify the district by certified mail, return receipt requested, of the transfer of ownership of the well and provide the name and

1 address of the new owner. On receipt of that information, the
2 district shall issue an amended permit with the new owner of the
3 well as permittee. The remaining terms of the permit shall remain
4 unchanged.

5 SECTION 22. ANNUAL REPORTS. Before January 31 of each year,
6 each owner of a well who holds a permit under this Act shall submit
7 a report to the board stating the following:

- 8 (1) the person's name;
- 9 (2) the location of the well;
- 10 (3) the total amount of groundwater produced by the
11 well during the immediately preceding 12-month period;
- 12 (4) the total amount of groundwater produced by the
13 well during each separate month of the immediately preceding
14 12-month period;
- 15 (5) the purpose for which the groundwater was used;
- 16 (6) the date the permit expires; and
- 17 (7) any other information required by the board as
18 necessary for the board to control and prevent subsidence within
19 the district.

20 SECTION 23. BOARD INVESTIGATIONS. At least once each year
21 and at any other time that the board considers necessary, the board
22 may have its staff make a complete study of the groundwater
23 situation within the district and determine the water level, rates
24 of withdrawal, amounts of withdrawal, and other information
25 relating to the withdrawal of groundwater that may affect the
26 subsidence of land within the district.

27 SECTION 24. ANNUAL GROUNDWATER WITHDRAWAL DETERMINATION.
28 (a) Before March 31 of each year, the board shall hold a hearing
29 under Section 14 of this Act to determine the effects during the
30 preceding calendar year of groundwater withdrawal on the subsidence
31 of land within the district.

32 (b) At the hearing, the board shall consider the annual
33 reports submitted under Section 22 of this Act and the
34 investigation made under Section 23 of this Act in addition to
35 information represented by persons appearing before the board.

36 (c) After the hearing, the board shall consider all the
37 information presented to it and shall determine the groundwater
38 withdrawal in the district during the preceding calendar year and
39 shall make findings of the effects of groundwater withdrawal during
40 that year on the subsidence of land within the district. A report
41 of the board's findings and determinations shall be made available
42 for examination by any interested person.

43 SECTION 25. REGULATION OF SPACING AND PRODUCTION. (a) In
44 order to minimize as far as practicable the drawdown of the water
45 table and reduction of artesian pressure and to control and prevent
46 subsidence, the board may provide for the spacing of wells and
47 regulate the production of groundwater from the wells, taking into
48 consideration any relevant factors, including the economic impact
49 on well owners and the resulting effect on subsidence.

50 (b) Before issuing any rule, regulation, or order under this
51 section, the board shall set a hearing on the proposed rule,
52 regulation, or order and issue notice of the hearing. Notice must
53 be given and hearings conducted in the manner provided in Section
54 14 of this Act.

55 SECTION 26. REQUIRING WATER-METERING DEVICES. The board may
56 adopt orders after notice and hearing under Section 14 of this Act
57 requiring water-metering devices to be placed on wells.

58 SECTION 27. ACCESS TO PROPERTY. (a) To carry out technical
59 and other investigations necessary to the implementation of this
60 Act, the board and its agents and employees are entitled to access
61 to all property within the district.

62 (b) Before entering property for the purposes stated in
63 Subsection (a) of this section, the person seeking access shall
64 give notice to the owner of the property in the manner provided by
65 the rules and regulations of the district and shall present proper
66 credentials.

67 (c) The board, and its agents and employees who enter
68 private property, shall observe the establishment's rules and
69 regulations concerning safety, internal security, and fire
70 protection.

1 SECTION 28. MONITORING AND SUPERVISIONS OF DISTRICT. The
2 district may use subsidence compaction monitors, water level
3 observation wells, and other materials and equipment to determine
4 the amount of groundwater that may be produced while allowing the
5 rebound and stabilization of groundwater to a level that will halt
6 subsidence.

7 SECTION 29. RESEARCH AND STUDIES. The board may conduct
8 studies and research that it considers necessary to implement this
9 Act. The board may use the services of geologists, hydrologists,
10 registered professional engineers, or other expert personnel to
11 accomplish the purposes of this section.

12 SECTION 30. COOPERATION WITH AND ASSISTANCE OF OTHER
13 GOVERNMENTAL ENTITIES. The board may cooperate with and request
14 the assistance of the Texas Water Development Board, the
15 commission, the United States Geological Survey, local governments,
16 and other agencies of the United States and the State of Texas in
17 implementing this Act.

18 SECTION 31. CONTRACTS. The board may enter into contracts
19 with any person to carry out this Act.

20 SECTION 32. APPEAL OF DISTRICT ACTIONS TO A DISTRICT COURT.
21 (a) A person who is adversely affected by a rule, regulation,
22 order, or other official action of the board may appeal to a
23 district court in any county in the district.

24 (b) For the purposes of this section, "a person who is
25 adversely affected" includes a person residing in or owning real
26 property in the district whose residence or real property is
27 subsiding. An appeal under this section must be filed not later
28 than the 45th day after the date the rule, regulation, order, or
29 other official action appealed from is promulgated.

30 (c) On written request of a person who is adversely
31 affected, the board shall make written findings and conclusions
32 with respect to a rule, regulation, order, or other official action
33 of the district. Not later than the 35th day after the request was
34 made, the board shall provide a certified copy of the findings and
35 conclusions to the person who made the request.

36 (d) In appeals taken under this section, the substantial
37 evidence rule shall be used to determine the legal propriety of a
38 rule, regulation, order, or other action of the board.

39 SECTION 33. APPEAL OF CERTAIN DISTRICT ACTIONS TO THE
40 COMMISSION. (a) As an alternative to the appeal provided by
41 Section 32 of this Act, a person who is granted a permit
42 authorizing withdrawal of groundwater in an amount less than
43 requested by that person may appeal the board's final decision to
44 the commission. The appeal shall be filed not later than the 60th
45 day after the date of the final order of the board.

46 (b) On written request of the person proposing to appeal an
47 order under Subsection (a) of this section, the board shall make
48 written findings and conclusions with respect to the order and
49 shall provide certified copies of the findings and conclusions to
50 the person making the request not later than the 35th day after the
51 date on which the written request is submitted to the board.

52 (c) The effect of a board order is stayed until the decision
53 of the commission in an appeal under this section is final.

54 (d) The review on appeal to the commission under this
55 section is governed by the substantial evidence rule as provided by
56 Section 19(e), Administrative Procedure and Texas Register Act
57 (Article 6252-13a, Vernon's Texas Civil Statutes).

58 (e) The commission may adopt necessary rules to carry out
59 the provisions of this section.

60 (f) An appeal from a final decision of the commission is to
61 a district court in Travis County and is governed by the
62 substantial evidence rule. Any party to the proceedings before the
63 commission may appeal a decision of the district court in the
64 manner provided for other civil actions, but a party appealing a
65 decision of a district court is not required to provide an appeal
66 bond.

67 (g) Under this section, the commission may adopt and assess
68 reasonable and necessary fees adequate to recover the costs of the
69 commission in administering this section.

70 SECTION 34. PERMIT FEE. (a) At the time a permit is issued

1 or renewed, the board shall collect from the permittee a permit
2 fee, established by schedule, based on the term of the permit and
3 the maximum amount of groundwater authorized by the board to be
4 withdrawn annually from the well.

5 (b) The fee schedule shall be determined by the board after
6 a hearing under Section 14 of this Act.

7 (c) The board shall use the funds obtained from permit fees
8 to cover the costs of issuing permits and performing other
9 functions under this Act.

10 SECTION 35. GRANTS, PURCHASES, GIFTS, LEASES, ETC. On
11 behalf of the district, the board may:

12 (1) purchase, lease, own, convey, and dispose of
13 property both inside and outside the district necessary or
14 convenient to the exercise of the powers, duties, and functions of
15 the board under this Act;

16 (2) accept grants, gifts, and devises of property;

17 (3) construct, purchase, lease, or acquire in some
18 other manner any material or property necessary to carry out this
19 Act; and

20 (4) accept gifts, grants, loans, or other
21 distributions of money.

22 SECTION 36. OWNERSHIP OF GROUNDWATER. The ownership and
23 rights of the owner of land and his lessees and assigns in
24 groundwater are recognized and nothing in this Act shall be
25 construed as depriving or divesting the owner or his lessees and
26 assigns of the ownership or rights, subject to rules and
27 regulations and orders and other official actions of the district.

28 SECTION 37. SURFACE WATER LAWS NOT APPLICABLE. The laws and
29 administrative rules relating to the use of surface water do not
30 apply to groundwater.

31 SECTION 38. SALE AND DISTRIBUTION OF WATER PROHIBITED. The
32 district may not sell or distribute surface water or groundwater
33 for any purpose.

34 SECTION 39. EXCLUSIONS. This Act does not apply to:

35 (1) wells regulated under Chapter 27, Water Code;

36 (2) shallow wells producing water solely to prevent
37 hazardous sand boils, dewater surface construction sites, or
38 relieve hydrostatic uplift on permanent structures and not used to
39 provide water for human consumption, agricultural use,
40 manufacturing or industrial use, or water injection;

41 (3) shallow wells producing water solely for
42 groundwater quality analysis and for monitoring migration of
43 subsurface contaminants or pollution and not used to provide water
44 for human consumption, agricultural use, manufacturing or
45 industrial uses, or water injection;

46 (4) shallow wells producing water solely for recovery
47 of contamination or pollution and not used to provide water for
48 human consumption, agricultural use, manufacturing or industrial
49 use, or water injection;

50 (5) persons owning only one well within the district
51 if the well has a casing with an inside diameter of five inches or
52 less; and

53 (6) on application for an exemption on a form
54 prescribed by the board, other wells with a casing that has an
55 inside diameter of five inches or less that serve a single-family
56 dwelling and have a negligible effect on subsidence within the
57 district.

58 SECTION 40. DISBURSEMENT OF FUNDS. The district's money may
59 be disbursed by check, draft, order, or other instruments, signed
60 by the person or persons authorized to do so by the board's bylaws
61 or by resolution of the board.

62 SECTION 41. ACCOUNTS AND INDEPENDENT AUDIT. (a) The
63 district shall keep a complete system of accounts and shall have
64 its affairs audited each year by an independent certified public
65 accountant or a firm of independent certified public accountants of
66 recognized integrity and ability. The district shall pay for the
67 audit.

68 (b) The board shall deliver a copy of the audit to the
69 commissioners court of each county in the district. The board
70 shall keep one copy of the audit at the district office, open to

1 inspection by any interested person during normal office hours.

2 SECTION 42. DEPOSITORY BANKS. (a) The board shall
3 designate one or more banks within the district to serve as
4 depository for the funds of the district. Except as provided by
5 Subsection (b) of this section, all funds of the district shall be
6 deposited in a depository bank.

7 (b) To the extent provided in a trust indenture, bond
8 proceeds and funds pledged to pay bonds may be deposited with the
9 trustee bank named in the trust indenture and shall be remitted to
10 the bank of payment for the payment of the principal of and
11 interest on the bonds.

12 (c) To the extent that funds in a depository bank or a
13 trustee bank are not invested or insured by the Federal Deposit
14 Insurance Corporation, they shall be secured in the manner provided
15 by law for the security of county funds.

16 (d) Before designating a depository bank, the board shall
17 issue a notice stating the time and place the board will meet for
18 that purpose and shall invite the banks in the district to submit
19 applications to be designated depositories. The term of service
20 for depositories shall be prescribed by the board. The board shall
21 publish the notice once in a newspaper of general circulation in
22 the district or mail a copy of the notice to each bank in the
23 district.

24 (e) The board shall consider the management and condition of
25 the banks that apply and shall designate as depositories the bank
26 or banks that offer the most favorable terms and conditions for
27 handling of the funds of the district and that the board finds have
28 proper management and are in condition to warrant handling of
29 district funds.

30 (f) Membership on the board of an officer or director of a
31 bank does not disqualify the bank from being designated as
32 depository.

33 (g) If no applications are received before the meeting, the
34 board shall designate a bank or banks within or outside the
35 district on terms and conditions it finds advantageous to the
36 district.

37 SECTION 43. PENALTIES. (a) If a person has violated, is
38 violating, or is threatening to violate a provision of this Act or
39 a rule, regulation, permit, or other order of the district, the
40 district may bring a civil action in a district court within the
41 district for an injunction to restrain the person from continuing
42 the violation or the threat of violation, for a civil penalty of
43 not less than \$50 nor more than \$5,000 for each violation and for
44 each day of violation, or for both injunctive relief and civil
45 penalty.

46 (b) At the request of the district, or the general manager
47 authorized by the board, the attorney general shall institute the
48 action. However, the district in its sole discretion may employ
49 attorneys of its choice to institute the action.

50 (c) The board is not required to post bond or other security
51 with the court under this section.

52 (d) On application for injunctive relief and a finding that
53 a person is violating or threatening to violate any provision of
54 this Act or any rule, permit, or other order of the district, the
55 district court shall grant any injunctive relief the facts may
56 warrant.

57 SECTION 44. LEGISLATIVE FINDING OF AUTHORITY. The
58 legislature finds that the requirements of Article XVI, Sections
59 59(d) and (e), of the Texas Constitution have been performed and
60 accomplished and that the legislature has the power and authority
61 to enact this Act.

62 SECTION 45. EMERGENCY. The importance of this legislation
63 and the crowded condition of the calendars in both houses create an
64 emergency and an imperative public necessity that the
65 constitutional rule requiring bills to be read on three several
66 days in each house be suspended, and this rule is hereby suspended,
67 and that this Act take effect and be in force from and after its
68 passage, and it is so enacted.

* * * * *

Austin, Texas
May 23, 1989

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Natural Resources to which was referred H.B. No. 2819, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

Santiesteban, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 20, 1989

TO: Honorable H. Tati Santiesteban, Chairman
Committee on Natural Resources
Senate Chamber
Austin, Texas

In Re: House Bill No. 2819,
as engrossed
By: Tallas

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 2819, as engrossed (relating to the creation, administration, powers, duties, and operations of the Fort Bend Subsidence District) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the Senate as to its probable fiscal implication on units of local government.

Source: LBB Staff: JO, JWH, AL, SKM, NH



State of Texas
House of Representatives
Austin

JIM TALLAS
STATE REPRESENTATIVE
P.O. Box 2910
Austin, Texas 78768-2910
(512) 463-0710

#1 Sugar Creek Center Blvd.
Suite 990
Sugar Land, Texas 77478
(713) 242-8500

April 19, 1989

The Honorable Terral Smith
Chairman, Committee on Natural Resources
House of Representatives
Austin, Texas

Dear Mr. Chairman:

In response to your request for an Author's Fiscal Statement on HB 2819 relating to the creation, powers, duties, administration and operations of the Fort Bend County Subsidence District, I have determined the following:

The costs to local governments for the creation of this district appear to be minimal. Each of the member cities may incur slight administrative costs for processing the mayoral appointments to the board of directors.

The costs to the district of developing a management plan, adopting temporary rules and conducting hearings will be financed by permit fees, as well the ongoing operating costs of the districts.

FISCAL YEAR PROJECTIONS

1990...Minimal
1991...same as 1990 anticipated
1992...same as 1990 anticipated

Please let me know if I can provide further information to you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim Tallas".
Jim Tallas

JT/rc

COMMITTEES: State Affairs, Chairman of
Budget and Oversight
Appropriations
Calendars

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner



Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

April 19, 1989

The Honorable Gib Lewis
Speaker of the House of Representatives
P.O. Box 2910
Austin, Texas 78769

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Sec. 36.

Bill No. (H.B. 2819) - Proposed creation of a conservation and reclamation district pursuant to Article III, S52 and Article XVI, S59(d), Texas Constitution: Fort Bend Subsidence District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments on items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

A handwritten signature in cursive script that reads "Allen Beinke".

Allen Beinke
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King, Secretary of the Senate
Representative Terral Smith, Chairman,
House Natural Resources Committee
Senator Bill Sims, State Senate
Representative Jim Tallas, House of Representatives

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATED TO THE FORT BEND
SUBSIDENCE DISTRICT

Water Development Policy Impact Statements for House Bill 2819 (H.B. 2819) relating to the creation, administration, powers, duties, operation, and financing of the Fort Bend Subsidence District follow.

Wells located within the limits of this proposed district which covers all of Fort Bend County, utilize the Gulf Coast aquifer. During the period from 1975-1985, excessive water-level declines occurred primarily in the southeastern one-half of the county, with up to 40 feet of water-table decline taking place. During this same time, between 50-100 feet of artesian decline also occurred in the north-central part of the county. Excessive pumpage with its associated water-level declines, triggers land-surface subsidence. This is hydrogeologic justification for the district. The Harris-Galveston Coastal Subsidence District which encompasses all of Harris and Galveston Counties, adjoins the proposed district on the northeast. Fort Bend County lies within a state designated critical area.

H.B. 2819 provides for the regulation of the withdrawal of groundwater within the district to prevent subsidence which contributes to or precipitates flooding, inundation, or overflow of areas, including rising waters resulting from storms or hurricanes. The district shall exercise its rights, powers, and duties in a manner which will effectively and expeditiously accomplish the purpose of the act. The district is proposed to be created under Article XVI, Section 59, of the Texas Constitution and as a conservation and reclamation district. Specific impact statements related to required headings follow:

- 1) **Population projections** - The proposed District is coterminous with the boundaries of Fort Bend County. The Board's current projected

population for Fort Bend County indicates an anticipated increase in population ranging from 154,831 to 208,720 over the next 20 years.

- 2) **District finances** - The district shall collect from a permittee (owner of a well other than specific types which are excluded) a permit fee, established by a schedule set by the board following a hearing, based on the term of the permit (one to five years) and the maximum amount of ground water authorized to be withdrawn annually from the well. Permit fee funds obtained shall be used to cover the costs of issuing permits and performing other district functions. The district may also accept grants, gifts, devises of property (which it may dispose of), and other distributions of money.
- 3) **Board of directors & powers** - This proposed district is to be governed by a board of 13 directors. Six of these are to be composed of one director each from the cities of Houston, Missouri City, Stafford, Sugar Land, Rosenberg, and Richmond who are to be appointed by the mayor of the respective cities. Five of these shall serve terms expiring January 31, 1991. One member's term shall expire January 31, 1990. Two directors representing agricultural interests who live in an unincorporated area, and four directors (two each) will represent industrial and business interests. Four of the six shall serve terms expiring January 31, 1991. The terms of the other two shall expire January 31, 1990. Additionally, one director will be appointed by all of the mayors of the other incorporated cities of the county. Except as provided for the one city member and two agricultural, industrial, or business members whose terms expire in January 31, 1989, the rest shall serve terms of two years. In the event an adjoining county is added to the district, four additional members will be added to the board. Two of these members will be chosen by the commissioners court of the affected county and one member each will be chosen by the mayors of the two cities of the affected county having the largest populations according to the most recent federal decennial census. The four new members shall draw lots to establish staggered two year terms.

Since the bill creates a ground-water subsidence district under Article XVI, Section 59 of the Texas Constitution, and powers relating to Chapters 50, 51, and 52 of the Texas Water Code are not included, its powers are limited to those specifically set out in the bill. The bill requires that the board shall administer this act to provide for the regulation of the withdrawal of ground water within the district to prevent subsidence which contributes to or precipitates flooding, inundation, or overflow of areas, including rising waters resulting from storms or hurricanes. The district shall administer and enforce the terms of this act and shall exercise its rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of the act. Specifically, the district shall control the withdrawals of ground water with reasonable rules, regulations, and orders. These shall consider: 1) availability of surface water, 2) the economic impact on the community, 3) the degree and effect of subsidence on the surface of the land, 4) differing topographical and geophysical characteristics of the land, and 5) the board has all other powers necessary or convenient to carry out its responsibilities and achieve the act's purposes.

The district may sue and be sued in the courts in the name of the district by and through the board. The board may employ attorneys to represent the district in district and appellate courts of the state and in the courts of the United States. The district may hold hearings to receive testimony, evidence, exhibits, and other information. The board has the power to subpoena a person or documents and to enforce the subpoena. It also has the power to administer oaths necessary to carry out the powers, duties, and functions of the board.

The board is empowered to formulate a plan within 12 months to control and prevent subsidence; adopt temporary rules during plan development; require well permits for one to five years and revoke, suspend, or modify these permits; to conduct required hearings; prepare annual reports relating to the number of wells and their respective pumpage; make annual studies of the ground-water situation including determination of the effects of ground-water withdrawal on subsidence;

regulate well spacing and pumpage; require metering devices; access property to conduct investigations; use monitoring devices to determine water-level declines and land-surface compaction; to cooperate with and obtain assistance from other governmental entities; to conduct research and studies; to enter into contracts with any person; disburse funds; and to assess penalties for violations of district regulations.

The district's powers do not apply to surface water and it may not sell or distribute surface or ground water. The act also recognizes private ownership of ground water. Additionally, the district may not control certain types of wells specifically set out in the bill. These include wells with a casing having an inside diameter of five inches or less that serve a single-family dwelling which have a negligible effect on subsidence.

- 4) **Effect on Texas Water Development Board's water plan** - The Board finds that creation of a proposed subsidence control district is consistent with the State Water Plan objective of local control of groundwater to prevent the effects of subsidence in southeastern Texas. The Board has provided regional water supply planning grant assistance to improve the management of groundwater and promote conversion to surface water supplies in most of Fort Bend County, and the results of the Board-funded planning projects indicate a need to better manage groundwater resources in the area.
- 5) **Texas Water Commission's supervision** - This proposed district will be under the "continuing right of supervision of the State of Texas" by the Commission as set out by Section 12.081 of the Texas Water Code. It is also subject to applicable general reporting provision requirements for all districts as set out in Subchapter A, Sections 50.001 through 50.106, Texas Water Code.
- 6) **Eminent domain power** - This district does not have this power.

- 7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the district; however, Section 4 of the bill sets out the procedure for adding adjoining counties to the district.
- 8) **Adequacy of the boundary description** - The district includes all of the area located within Fort Bend County, therefore, the boundary description is adequate. At present there are a total of 125 water-related districts in existence within the county. Additionally, there are four municipal utility districts on which a hearing is pending. A breakout of those districts now in existence, by category, are as follows: 108 municipal utility, 10 levee improvement/flood control, 6 water control and improvement, and 1 drainage. These are all located in the northern one-half of the county and north of the community of Pleak. Many of the municipal utility districts undoubtedly have wells which would be required to be permitted, subjected to regulation of spacing and production, and would be required to pay a permit fee based on the term of the permit and the maximum amount of ground water authorized to be withdrawn annually from the well.
- 9) **Comments on powers and duties different from similar types of districts** This district has the normal powers and duties accorded to a subsidence district and the bill goes into great detail on its operation. The bill requires the formulation and review of a management plan within the brief period of 12 months after the effective date of the bill. This does not allow sufficient time for this project. Since the district may contract with any person to perform the duties of general manager and it may enter into contracts with any person, this may allow it to contract with the Harris-Galveston Coastal Subsidence District for general management services and the development of the required management plan.

For clarification of the bill, the following changes are recommended:
a) on page 7, lines 22 and 26, the word "board" should be changed to general manager; b) on page 10, lines 22 and 25, the word "prevent" should be changed to mitigate; and c) on page 11, line 10, the phrase

"drawdown of the water table" should be changed to long-term static water-level decline.

LETTER OF TRANSMITTAL
HOUSE OF REPRESENTATIVES
STATE OF TEXAS

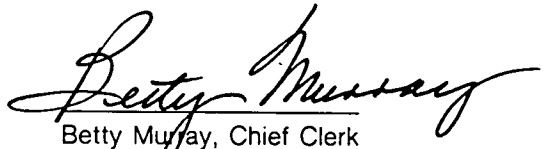
TO: The Honorable William P. Clements, Jr.
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Water Commission copies of House Bill No. 2819, a bill relating to a conservation and reclamation district, and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Water Commission, under Section 59(d), Article XVI, Constitution of the State of Texas.

MAR 30 1989

Date transmitted to
Governor's Office


Betty Murray, Chief Clerk
House of Representatives

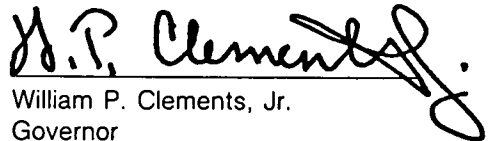
TO: Texas Water Commission

SUBJECT: A Bill Relating to a Conservation and Reclamation District

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3/31/89

Date transmitted to
Texas Water Commission


William P. Clements, Jr.
Governor


TO: The Honorable Gibson D. "Gib" Lewis
Speaker of the House

The Honorable William P. Hobby
President of the Senate

The Honorable William P. Clements, Jr.
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are the recommendations of the Texas Water Commission on House Bill No. _____, in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.



Allen Beinke
Executive Director

PUBLISHER'S AFFIDAVIT

THE STATE OF TEXAS

County of Fort Bend,

On this the 10 day of March, A. D. 19 89, personally appeared before the undersigned, a Notary Public in and for said county and state, Clyde C. King, Jr. Associate Publisher of The Herald-Coaster, a newspaper published at Rosenberg, County of Fort Bend, State of Texas, who, being by me duly sworn, on oath, states that the advertisement, a true copy of which is hereto annexed, was published in

(SEAL)

said newspaper in one issue(s)

thereof on the following date(s):

February 10

A. D. 1989.

PUBLIC NOTICE
A BILL TO BE ENTITLED AN ACT
relating to the creation, administra-
tion, power, duties, and operations of
the Fort Bend Subsidence District will
be filed in Austin March 10, 1989.

Clyde C. King, Jr.
Subscribed and sworn to before me, this

the 10 day of March A. D. 1989.

Lori Bobbitt
Notary Public in and for Fort Bend County,

Texas

Lori Bobbitt

My Commission expires 3/18/89

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner



Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

April 19, 1989

The Honorable Gib Lewis
Speaker of the House of Representatives
P.O. Box 2910
Austin, Texas 78769

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Sec. 36.

Bill No. (H.B. 2819) - Proposed creation of a conservation and reclamation district pursuant to Article III, S52 and Article XVI, S59(d), Texas Constitution: Fort Bend Subsidence District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments on items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

A handwritten signature in cursive script that reads "Allen Beinke".

Allen Beinke
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King, Secretary of the Senate
Representative Terral Smith, Chairman,
House Natural Resources Committee
Senator Bill Sims, State Senate
Representative Jim Tallas, House of Representatives

F
ENROLLED

H.B. No. 2819

1 AN ACT

2 relating to the creation, administration, powers, duties, and
3 operations of the Fort Bend Subsidence District; providing for
4 civil penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. PURPOSE AND INTENT. (a) The purpose of this Act
7 is to provide for the regulation of the withdrawal of groundwater
8 within the district created by this Act to prevent subsidence that
9 contributes to or precipitates flooding, inundation, or overflow of
10 areas within the district, including rising waters resulting from
11 storms or hurricanes.

12 (b) It is the intent of the legislature that the district
13 created by this Act shall administer and enforce the terms of this
14 Act and shall exercise its rights, powers, and duties in a manner
15 that will effectively and expeditiously accomplish the purposes of
16 this Act.

17 SECTION 2. DEFINITIONS. In this Act:

18 (1) "Person" includes a corporation, individual,
19 organization, government, governmental subdivision or agency,
20 business trust, estate, trust, partnership, or association, and any
21 other legal entity.

22 (2) "District" means the Fort Bend Subsidence
23 District.

24 (3) "Board" means the board of directors of the Fort

1 Bend Subsidence District.

2 (4) "Groundwater" means water existing below the
3 earth's surface within the district, but does not include water
4 produced with oil in the production of oil and gas.

5 (5) "Well" means a facility, device, or method used to
6 withdraw groundwater.

7 (6) "Withdraw" means the act of extracting groundwater
8 by pumping or some other method.

9 (7) "Drill" means drilling, equipping, or completing
10 wells or substantially altering the size of wells or well pumps.

11 (8) "Subsidence" means the lowering in elevation of
12 the surface of land by the withdrawal of groundwater.

13 (9) "Commission" means the Texas Water Commission.

14 SECTION 3. CREATION. Under Article XVI, Section 59, of the
15 Texas Constitution a conservation and reclamation district is
16 created to be known as the Fort Bend Subsidence District. The
17 district is a governmental agency, a political subdivision of the
18 state, and a body politic and corporate.

19 SECTION 4. BOUNDARIES. (a) The district includes all of
20 the territory within Fort Bend County.

21 (b) An adjoining county may be added to the district on
22 application of the commissioners court of the adjoining county and
23 compliance with the applicable provisions of Sections
24 55.730-55.744, Water Code.

25 (c) The proposition on the ballots for an election to add an
26 adjoining county to the district shall be printed to permit voting
27 for or against the proposition: "Addition of _____ County to

1 the Fort Bend Subsidence District."

2 (d) A county added to the district under this section is
3 subject to the jurisdiction of the board and this Act.

4 SECTION 5. BOARD OF DIRECTORS. (a) The district is
5 governed by a board of 13 directors.

6 (b) One director from each of the following cities in Fort
7 Bend County shall be appointed by the mayor of the respective city:

- 8 (1) Houston;
9 (2) Missouri City;
10 (3) Stafford;
11 (4) Sugar Land;
12 (5) Rosenberg; and
13 (6) Richmond.

14 (c) The Commissioners Court of Fort Bend County shall
15 appoint two directors who represent agricultural interests and live
16 in an unincorporated area, two directors who represent industrial
17 interests, and two directors who represent business interests.

18 (d) One director shall be appointed by the mayors of the
19 incorporated cities within the county not listed in Subsection (b)
20 of this section.

21 (e) If an adjoining county is added to the district, four
22 members shall be added to the board. Two members shall be chosen
23 by the commissioners court of the county added to the district.
24 One member each shall be chosen by the mayors of the two cities in
25 the county added to the district that have the largest populations
26 according to the most recent federal decennial census. The four
27 new members shall draw lots to establish staggered terms of office.

1 (f) All directors must be residents of and qualified voters
2 in the district.

3 (g) The county judge of Fort Bend County shall set a date,
4 time, and place for a meeting of the persons designated in
5 Subsections (b), (c), and (d) of this section to choose the initial
6 directors. The county judge shall choose a date not later than the
7 30th day after the effective date of this Act. The county judge
8 shall mail notices of the meeting to the persons designated to
9 choose the directors. The county judge shall appoint a person to
10 preside at the meeting. The directors chosen at the meeting shall
11 assume their positions not later than the fifth day after the date
12 of the meeting.

13 (h) Selection of subsequent directors shall be made on the
14 second Monday in January at 11 a.m. in the district's main office.
15 Not later than the 20th day before the date of the meeting, the
16 district shall mail notice of the meeting to the persons designated
17 in Subsections (b), (c), (d), and (e) of this section to choose
18 directors.

19 (i) The terms of office for the initial directors shall be
20 as follows:

21 (1) five members chosen under Subsection (b) of this
22 section and four members chosen under Subsection (c) of this
23 section shall serve for terms expiring January 31, 1991; and

24 (2) one member chosen under Subsection (b) of this
25 section, two members chosen under Subsection (c) of this section,
26 and the member chosen under Subsection (d) of this section shall
27 serve for terms expiring January 31, 1990.

1 (j) Except as provided by Subsection (i) of this section,
2 members of the board shall serve for terms of two years.

3 (k) At the time the county judge of Fort Bend County sets
4 the meeting required by Subsection (g) of this section, the county
5 judge shall set the date, time, and place for the initial meeting
6 of the board. Not later than the 20th day before the date of the
7 initial meeting of the board, the county judge shall mail notices
8 of the meeting to the initial directors.

9 (l) At the initial meeting of the board and each year at the
10 first meeting after new directors take office, the directors shall
11 select a chairman, a vice-chairman, and a secretary. The chairman,
12 vice-chairman, and secretary shall serve at the pleasure of the
13 board and may be removed and replaced by a majority of the board at
14 any time.

15 (m) The chairman shall preside over meetings of the board.
16 If the chairman is not present, the vice-chairman shall preside.

17 (n) Each director is entitled to receive \$50 a day for each
18 day he is engaged in the exercise of his duties under this Act and
19 necessary travel and other expenses incurred in the exercise of his
20 duties under this Act. A member of the board may not receive
21 compensation and travel and other expenses for more than 120 days
22 in any one calendar year.

23 (o) If a vacancy occurs on the board, the person or persons
24 designated in Subsection (b), (c), (d), or (e) of this section to
25 appoint a director for the position that is vacated shall appoint a
26 director to serve the unexpired term.

27 (p) Each director shall take the oath of office prescribed

1 by law for county commissioners and shall execute a bond in the
2 amount of \$5,000, payable to the district, conditioned on the
3 faithful performance of his duties. The district shall pay for the
4 bond.

5 (q) A majority of the directors constitute a quorum for
6 transaction of business of the district. An official act of the
7 board is not valid without the affirmative vote of a majority of
8 the directors.

9 (r) The board shall hold one regular meeting each month at a
10 time set by the board. The board may hold special meetings at the
11 call of the chairman or on the written request of at least three
12 directors.

13 SECTION 6. POWERS AND DUTIES IN GENERAL. (a) The board
14 shall administer this Act as provided by Section 1 of this Act.

15 (b) Withdrawals of groundwater covered by this Act are
16 subject to reasonable rules, regulations, and orders adopted by the
17 board.

18 (c) In adopting rules, regulations, and orders, the board
19 shall consider the following factors:

- 20 (1) availability of surface water;
21 (2) economic impact on persons and the community;
22 (3) degree and effect of subsidence on the surface of
23 the land; and
24 (4) differing topographical and geophysical
25 characteristics of the land.

26 (d) The board has all other powers necessary or convenient
27 to carry out its responsibilities and achieve the purpose of this

1 Act.

2 SECTION 7. GENERAL MANAGER. (a) The board may employ a
3 general manager who shall be the chief administrative officer of
4 the district. The board may delegate to the general manager the
5 authority to manage and operate the affairs of the district subject
6 only to orders of the board.

7 (b) The duties of the general manager include:

- 8 (1) administration of the orders of the board;
9 (2) coordination with state, federal, and local
10 agencies;
11 (3) supervision of the development of plans and
12 programs of the district;
13 (4) preparation and submission of the annual budget to
14 the board; and
15 (5) other duties assigned by the board.

16 (c) The general manager shall execute a bond in an amount
17 determined by the board, payable to the district, conditioned on
18 the faithful performance of his duties. The district shall pay for
19 the bond.

20 (d) The district may contract with any person to perform the
21 duties of general manager.

22 SECTION 8. EMPLOYEES. (a) The board shall employ personnel
23 necessary for the proper handling of the business and operation of
24 the district and may employ attorneys, bookkeepers, engineers, and
25 other expert and specialized personnel that are considered
26 necessary. The board shall determine the compensation to be paid
27 by the district to the employees.

1 (b) The board shall determine the term of office of and the
2 compensation to be paid to the general manager. The board may
3 discharge the general manager by a majority vote. The board may
4 discharge employees of the district.

5 (c) The board shall require an employee who collects, pays,
6 or handles funds of the district to furnish good and sufficient
7 bond, payable to the district, for a sufficient amount to safeguard
8 the district. The bond shall be conditioned on the faithful
9 performance of the employee's duties and on accounting for all
10 funds and property of the district under the employee's control.
11 The district shall pay for the bond.

12 SECTION 9. DISTRICT OFFICE. The board shall maintain its
13 principal office for conducting the business of the district. The
14 office must be located inside the district.

15 SECTION 10. MINUTES AND RECORDS OF DISTRICT. The district
16 shall keep a true and complete account of the board's meetings and
17 proceedings and shall preserve the board's minutes, contracts,
18 records, notices, accounts, and receipts in a fireproof vault or
19 safe. The board's minutes, contracts, records, notices, accounts,
20 and receipts are the property of the district and are subject to
21 public inspection.

22 SECTION 11. SUITS. The district may sue and be sued in the
23 courts of this state in the name of the district by and through the
24 board. If requested by the district, the attorney general shall
25 represent the district in the district and appellate courts of this
26 state and in the courts of the United States. The board, in its
27 sole discretion, may employ attorneys to represent the district in

1 the district and appellate courts of this state and in the courts
2 of the United States. All courts shall take judicial notice of the
3 creation of the district and of its boundaries.

4 SECTION 12. SEAL. The board shall adopt a seal.

5 SECTION 13. RULES AND REGULATIONS. (a) After notice and
6 hearing under Section 14 of this Act, the board shall adopt and
7 enforce rules and regulations that are designed to expeditiously
8 and effectively accomplish the provisions and purposes of this Act,
9 including rules governing procedure before the board.

10 (b) The board shall compile its rules and regulations in a
11 book and make the book available for use and inspection at the
12 district's principal office. The district shall provide copies of
13 its rules and regulations on payment of the cost of reproduction.

14 SECTION 14. HEARINGS. (a) At regular meetings of the
15 board, the board shall set the dates, times, and locations for
16 hearings to be held under this Act.

17 (b) Not later than the 20th day before the date set for a
18 hearing, the district shall deliver or mail notice of the hearing
19 under this section to each county and municipal government within
20 the district and to each person that the board believes has an
21 interest in the subject matter to be dealt with at the hearing.

22 (c) Not later than the 20th day before the date set for a
23 hearing, the district shall publish notice of the hearing under
24 this section once in a newspaper of general circulation in each
25 county within the district.

26 (d) Not later than the 20th day before the date set for a
27 hearing, the district shall post the notice of the hearing under

1 this section at the county courthouse of each county within the
2 district in the place where notices are usually posted.

3 (e) Any person who desires to appear at a hearing and
4 present testimony, evidence, exhibits, or other information may do
5 so in person, by counsel, or both.

6 (f) The board may hold hearings at any location within the
7 district.

8 (g) The board may recess a hearing from day to day.

9 (h) The board may use hearing examiners to hear any subject
10 set for the hearing. Procedures for use of hearing examiners shall
11 be provided in the rules and regulations.

12 SECTION 15. COMPELLING TESTIMONY, SWEARING WITNESSES, AND
13 SUBPOENAS. The board may subpoena a person to testify if the
14 person's testimony is necessary to carry out the powers, duties,
15 and functions of the board under this Act. The board may
16 administer oaths to persons who testify before the board. The
17 board may subpoena documents if the documents are necessary to
18 carry out the powers, duties, and functions of the board under this
19 Act. On application of the board, a district court shall enforce
20 the subpoena in the same manner as a subpoena issued by the court.

21 SECTION 16. DISTRICT PLAN. (a) Under Section 14 of this
22 Act, the board shall formulate a plan to control and mitigate
23 subsidence within the district. The plan shall accomplish this
24 purpose by the regulation of groundwater withdrawals to maintain
25 sufficient artesian pressure to control and mitigate subsidence.

26 (b) The plan shall specify, in as much detail as
27 practicable, the acts, procedures, performance, and avoidance that

1 are necessary to carry out the purposes of this Act.

2 (c) When formulating the plan, the board shall compile and
3 consider:

4 (1) a list of wells in the district that will be
5 subject to regulation under this Act;

6 (2) an accurate estimate of groundwater production
7 from each well or proposed well in the district;

8 (3) an accurate estimate of the amount of groundwater
9 that may be produced from each well and each area in the district
10 without causing long-term static water level decline and reduction
11 of artesian pressure that will lead to subsidence within the
12 district;

13 (4) an accurate estimate of the current and future
14 water needs of each well owner in the district;

15 (5) an accurate estimate of the groundwater production
16 capacity of each well in the district;

17 (6) a list of all available sources of water in the
18 district other than groundwater;

19 (7) the purpose for which the water is currently used
20 and for which it is proposed to be used in the future;

21 (8) information relating to formulation of a permit
22 system; and

23 (9) other information necessary to carry out the
24 management of groundwater in the district and to effectively and
25 expeditiously accomplish the purposes of this Act.

26 (d) The plan shall be formulated not later than 12 months
27 after the effective date of this Act.

1 (e) Not later than the 60th day after the date the plan is
2 formulated, the board shall review and adopt the plan.

3 (f) Before the plan is adopted, the board shall hold a
4 hearing under Section 14 of this Act to consider the proposed plan.

5 (g) After the hearing, the board shall make any changes it
6 considers necessary based on evidence and material presented at the
7 hearing and shall adopt the plan.

8 (h) The plan adopted under this section may be amended or
9 repealed. A new plan may be adopted in the manner provided in this
10 section for the adoption of the original plan. A plan, once
11 adopted, shall remain in effect until the adoption of a new plan.

12 SECTION 17. TEMPORARY REGULATION. During the period that
13 the board is formulating and adopting the plan under Section 16 of
14 this Act, the board shall adopt temporary rules and regulations
15 relating to the withdrawal of groundwater that are necessary to
16 control subsidence.

17 SECTION 18. PERMIT REQUIREMENT. (a) The owner of a well
18 located in the district must obtain a permit from the board to
19 withdraw groundwater.

20 (b) Owners of wells operating or being drilled on the
21 effective date of this Act must apply for a permit before January
22 1, 1990, and may continue to operate the well without a permit
23 until the application for a permit for the well is acted on by the
24 board.

25 (c) A permit issued under this Act is valid for a term of
26 one year from the date it is issued unless a longer or shorter term
27 is specified by the board. The board may issue a permit for a term

1 not to exceed five years in order to aid the district in the
2 effective and expeditious performance of its duties if issuance of
3 the permit does not impair the ability of the district to control
4 and prevent subsidence within the district.

5 (d) A permit may be revoked, suspended, modified, or amended
6 after notice and public hearing under Section 14 of this Act
7 whenever reasonably necessary to accomplish the purposes of this
8 Act.

9 (e) Permits may be renewed in the same manner as permits are
10 issued.

11 (f) To obtain a permit, a person must submit an application
12 and an application fee to the board. The application must state:

13 (1) the person's name;
14 (2) the person's address;
15 (3) the location and wellhead elevation of the well or
16 proposed well;

17 (4) the amount of water being produced or proposed to
18 be produced; and

19 (5) any other information required by the board as
20 necessary for the board to control and prevent subsidence in the
21 district.

22 (g) The board shall use the application fee to process
23 applications.

24 SECTION 19. NOTICE AND HEARING ON PERMIT. (a) The board
25 shall hold a hearing on each application.

26 (b) Not later than the 20th day before the date set for the
27 hearing, the board shall notify the applicant by certified mail,

1 return receipt requested, of the date, time, and location of the
2 hearing.

3 (c) Except as provided by this section, the hearing shall be
4 conducted and notice of hearing given under Section 14 of this Act.

5 (d) The board may consider as many applications for permits
6 as it considers necessary at a hearing.

7 SECTION 20. ISSUANCE OF PERMIT. (a) Not later than the
8 35th day after the date of the hearing, the board shall decide
9 whether or not to issue a permit and shall formulate the terms of
10 the permit, if issued.

11 (b) In deciding whether or not to issue a permit and in
12 setting the terms of the permit, the board shall consider:

13 (1) the purpose of this Act;

14 (2) the district plan;

15 (3) the quality, quantity, and availability of surface
16 water at prices competitive with those charged by suppliers of
17 surface water within the district; and

18 (4) the economic impact on the applicant of granting
19 or denying the permit or of the terms prescribed by a permit in
20 relation to the effect on subsidence that would result.

21 (c) The board shall grant a permit to an applicant whenever
22 the board finds on sufficient evidence that:

23 (1) there is no other adequate and available
24 substitute or supplemental source of surface water at prices
25 competitive with those charged by suppliers of surface water within
26 the district; and

27 (2) compliance with any provision of this Act, or any

1 rule or regulation of the district, will result in an arbitrary
2 taking of property or in the practical closing and elimination of
3 any lawful business, occupation, or activity, without sufficient
4 corresponding benefit or advantage to the people.

5 (d) If the board decides to issue the permit, the permit
6 must state the terms prescribed by the board.

7 (e) The permit must include the following:

8 (1) the name and address of the permittee;

9 (2) the location of the well;

10 (3) the date the permit begins and the date the permit
11 expires;

12 (4) conditions and restrictions placed on the
13 withdrawal of groundwater;

14 (5) adoption of water conservation measures for the
15 purpose of preventing waste of groundwater, including educational
16 programs; and

17 (6) any other terms and conditions necessary to
18 control and prevent subsidence.

19 SECTION 21. PERMIT NOT TRANSFERABLE. A permit issued under
20 this Act is not transferable unless the permittee and new owner
21 notify the district by certified mail, return receipt requested, of
22 the transfer of ownership of the well and provide the name and
23 address of the new owner. On receipt of that information, the
24 district shall issue an amended permit with the new owner of the
25 well as permittee. The remaining terms of the permit shall remain
26 unchanged.

27 SECTION 22. ANNUAL REPORTS. Before January 31 of each year,

1 each owner of a well who holds a permit under this Act shall submit
2 a report to the board stating the following:

- 3 (1) the person's name;
- 4 (2) the location of the well;
- 5 (3) the total amount of groundwater produced by the
6 well during the immediately preceding 12-month period;
- 7 (4) the total amount of groundwater produced by the
8 well during each separate month of the immediately preceding
9 12-month period;
- 10 (5) the purpose for which the groundwater was used;
- 11 (6) the date the permit expires; and
- 12 (7) any other information required by the board as
13 necessary for the board to control and prevent subsidence within
14 the district.

15 SECTION 23. BOARD INVESTIGATIONS. At least once each year
16 and at any other time that the board considers necessary, the board
17 may have its staff make a complete study of the groundwater
18 situation within the district and determine the water level, rates
19 of withdrawal, amounts of withdrawal, and other information
20 relating to the withdrawal of groundwater that may affect the
21 subsidence of land within the district.

22 SECTION 24. ANNUAL GROUNDWATER WITHDRAWAL DETERMINATION.
23 (a) Before March 31 of each year, the board shall hold a hearing
24 under Section 14 of this Act to determine the effects during the
25 preceding calendar year of groundwater withdrawal on the subsidence
26 of land within the district.

27 (b) At the hearing, the board shall consider the annual

1 reports submitted under Section 22 of this Act and the
2 investigation made under Section 23 of this Act in addition to
3 information represented by persons appearing before the board.

4 (c) After the hearing, the board shall consider all the
5 information presented to it and shall determine the groundwater
6 withdrawal in the district during the preceding calendar year and
7 shall make findings of the effects of groundwater withdrawal during
8 that year on the subsidence of land within the district. A report
9 of the board's findings and determinations shall be made available
10 for examination by any interested person.

11 SECTION 25. REGULATION OF SPACING AND PRODUCTION. (a) In
12 order to minimize as far as practicable the drawdown of the water
13 table and reduction of artesian pressure and to control and prevent
14 subsidence, the board may provide for the spacing of wells and
15 regulate the production of groundwater from the wells, taking into
16 consideration any relevant factors, including the economic impact
17 on well owners and the resulting effect on subsidence.

18 (b) Before issuing any rule, regulation, or order under this
19 section, the board shall set a hearing on the proposed rule,
20 regulation, or order and issue notice of the hearing. Notice must
21 be given and hearings conducted in the manner provided in Section
22 14 of this Act.

23 SECTION 26. REQUIRING WATER-METERING DEVICES. The board may
24 adopt orders after notice and hearing under Section 14 of this Act
25 requiring water-metering devices to be placed on wells.

26 SECTION 27. ACCESS TO PROPERTY. (a) To carry out technical
27 and other investigations necessary to the implementation of this

1 Act, the board and its agents and employees are entitled to access
2 to all property within the district.

3 (b) Before entering property for the purposes stated in
4 Subsection (a) of this section, the person seeking access shall
5 give notice to the owner of the property in the manner provided by
6 the rules and regulations of the district and shall present proper
7 credentials.

8 (c) The board, and its agents and employees who enter
9 private property, shall observe the establishment's rules and
10 regulations concerning safety, internal security, and fire
11 protection.

12 SECTION 28. MONITORING AND SUPERVISIONS OF DISTRICT. The
13 district may use subsidence compaction monitors, water level
14 observation wells, and other materials and equipment to determine
15 the amount of groundwater that may be produced while allowing the
16 rebound and stabilization of groundwater to a level that will halt
17 subsidence.

18 SECTION 29. RESEARCH AND STUDIES. The board may conduct
19 studies and research that it considers necessary to implement this
20 Act. The board may use the services of geologists, hydrologists,
21 registered professional engineers, or other expert personnel to
22 accomplish the purposes of this section.

23 SECTION 30. COOPERATION WITH AND ASSISTANCE OF OTHER
24 GOVERNMENTAL ENTITIES. The board may cooperate with and request
25 the assistance of the Texas Water Development Board, the
26 commission, the United States Geological Survey, local governments,
27 and other agencies of the United States and the State of Texas in

1 implementing this Act.

2 SECTION 31. CONTRACTS. The board may enter into contracts
3 with any person to carry out this Act.

4 SECTION 32. APPEAL OF DISTRICT ACTIONS TO A DISTRICT COURT.

5 (a) A person who is adversely affected by a rule, regulation,
6 order, or other official action of the board may appeal to a
7 district court in any county in the district.

8 (b) For the purposes of this section, "a person who is
9 adversely affected" includes a person residing in or owning real
10 property in the district whose residence or real property is
11 subsiding. An appeal under this section must be filed not later
12 than the 45th day after the date the rule, regulation, order, or
13 other official action appealed from is promulgated.

14 (c) On written request of a person who is adversely
15 affected, the board shall make written findings and conclusions
16 with respect to a rule, regulation, order, or other official action
17 of the district. Not later than the 35th day after the request was
18 made, the board shall provide a certified copy of the findings and
19 conclusions to the person who made the request.

20 (d) In appeals taken under this section, the substantial
21 evidence rule shall be used to determine the legal propriety of a
22 rule, regulation, order, or other action of the board.

23 SECTION 33. APPEAL OF CERTAIN DISTRICT ACTIONS TO THE
24 COMMISSION. (a) As an alternative to the appeal provided by
25 Section 32 of this Act, a person who is granted a permit
26 authorizing withdrawal of groundwater in an amount less than
27 requested by that person may appeal the board's final decision to

1 the commission. The appeal shall be filed not later than the 60th
2 day after the date of the final order of the board.

3 (b) On written request of the person proposing to appeal an
4 order under Subsection (a) of this section, the board shall make
5 written findings and conclusions with respect to the order and
6 shall provide certified copies of the findings and conclusions to
7 the person making the request not later than the 35th day after the
8 date on which the written request is submitted to the board.

9 (c) The effect of a board order is stayed until the decision
10 of the commission in an appeal under this section is final.

11 (d) The review on appeal to the commission under this
12 section is governed by the substantial evidence rule as provided by
13 Section 19(e), Administrative Procedure and Texas Register Act
14 (Article 6252-13a, Vernon's Texas Civil Statutes).

15 (e) The commission may adopt necessary rules to carry out
16 the provisions of this section.

17 (f) An appeal from a final decision of the commission is to
18 a district court in Travis County and is governed by the
19 substantial evidence rule. Any party to the proceedings before the
20 commission may appeal a decision of the district court in the
21 manner provided for other civil actions, but a party appealing a
22 decision of a district court is not required to provide an appeal
23 bond.

24 (g) Under this section, the commission may adopt and assess
25 reasonable and necessary fees adequate to recover the costs of the
26 commission in administering this section.

27 SECTION 34. PERMIT FEE. (a) At the time a permit is issued

1 or renewed, the board shall collect from the permittee a permit
2 fee, established by schedule, based on the term of the permit and
3 the maximum amount of groundwater authorized by the board to be
4 withdrawn annually from the well.

5 (b) The fee schedule shall be determined by the board after
6 a hearing under Section 14 of this Act.

7 (c) The board shall use the funds obtained from permit fees
8 to cover the costs of issuing permits and performing other
9 functions under this Act.

10 SECTION 35. GRANTS, PURCHASES, GIFTS, LEASES, ETC. On
11 behalf of the district, the board may:

12 (1) purchase, lease, own, convey, and dispose of
13 property both inside and outside the district necessary or
14 convenient to the exercise of the powers, duties, and functions of
15 the board under this Act;

16 (2) accept grants, gifts, and devises of property;

17 (3) construct, purchase, lease, or acquire in some
18 other manner any material or property necessary to carry out this
19 Act; and

20 (4) accept gifts, grants, loans, or other
21 distributions of money.

22 SECTION 36. OWNERSHIP OF GROUNDWATER. The ownership and
23 rights of the owner of land and his lessees and assigns in
24 groundwater are recognized and nothing in this Act shall be
25 construed as depriving or divesting the owner or his lessees and
26 assigns of the ownership or rights, subject to rules and
27 regulations and orders and other official actions of the district.

1 SECTION 37. SURFACE WATER LAWS NOT APPLICABLE. The laws and
2 administrative rules relating to the use of surface water do not
3 apply to groundwater.

4 SECTION 38. SALE AND DISTRIBUTION OF WATER PROHIBITED. The
5 district may not sell or distribute surface water or groundwater
6 for any purpose.

7 SECTION 39. EXCLUSIONS. This Act does not apply to:

8 (1) wells regulated under Chapter 27, Water Code;

9 (2) shallow wells producing water solely to prevent
10 hazardous sand boils, dewater surface construction sites, or
11 relieve hydrostatic uplift on permanent structures and not used to
12 provide water for human consumption, agricultural use,
13 manufacturing or industrial use, or water injection;

14 (3) shallow wells producing water solely for
15 groundwater quality analysis and for monitoring migration of
16 subsurface contaminants or pollution and not used to provide water
17 for human consumption, agricultural use, manufacturing or
18 industrial uses, or water injection;

19 (4) shallow wells producing water solely for recovery
20 of contamination or pollution and not used to provide water for
21 human consumption, agricultural use, manufacturing or industrial
22 use, or water injection;

23 (5) persons owning only one well within the district
24 if the well has a casing with an inside diameter of five inches or
25 less; and

26 (6) on application for an exemption on a form
27 prescribed by the board, other wells with a casing that has an

1 inside diameter of five inches or less that serve a single-family
2 dwelling and have a negligible effect on subsidence within the
3 district.

4 SECTION 40. DISBURSEMENT OF FUNDS. The district's money may
5 be disbursed by check, draft, order, or other instruments, signed
6 by the person or persons authorized to do so by the board's bylaws
7 or by resolution of the board.

8 SECTION 41. ACCOUNTS AND INDEPENDENT AUDIT. (a) The
9 district shall keep a complete system of accounts and shall have
10 its affairs audited each year by an independent certified public
11 accountant or a firm of independent certified public accountants of
12 recognized integrity and ability. The district shall pay for the
13 audit.

14 (b) The board shall deliver a copy of the audit to the
15 commissioners court of each county in the district. The board
16 shall keep one copy of the audit at the district office, open to
17 inspection by any interested person during normal office hours.

18 SECTION 42. DEPOSITORY BANKS. (a) The board shall
19 designate one or more banks within the district to serve as
20 depository for the funds of the district. Except as provided by
21 Subsection (b) of this section, all funds of the district shall be
22 deposited in a depository bank.

23 (b) To the extent provided in a trust indenture, bond
24 proceeds and funds pledged to pay bonds may be deposited with the
25 trustee bank named in the trust indenture and shall be remitted to
26 the bank of payment for the payment of the principal of and
27 interest on the bonds.

1 (c) To the extent that funds in a depository bank or a
2 trustee bank are not invested or insured by the Federal Deposit
3 Insurance Corporation, they shall be secured in the manner provided
4 by law for the security of county funds.

5 (d) Before designating a depository bank, the board shall
6 issue a notice stating the time and place the board will meet for
7 that purpose and shall invite the banks in the district to submit
8 applications to be designated depositories. The term of service
9 for depositories shall be prescribed by the board. The board shall
10 publish the notice once in a newspaper of general circulation in
11 the district or mail a copy of the notice to each bank in the
12 district.

13 (e) The board shall consider the management and condition of
14 the banks that apply and shall designate as depositories the bank
15 or banks that offer the most favorable terms and conditions for
16 handling of the funds of the district and that the board finds have
17 proper management and are in condition to warrant handling of
18 district funds.

19 (f) Membership on the board of an officer or director of a
20 bank does not disqualify the bank from being designated as
21 depository.

22 (g) If no applications are received before the meeting, the
23 board shall designate a bank or banks within or outside the
24 district on terms and conditions it finds advantageous to the
25 district.

26 SECTION 43. PENALTIES. (a) If a person has violated, is
27 violating, or is threatening to violate a provision of this Act or

1 a rule, regulation, permit, or other order of the district, the
2 district may bring a civil action in a district court within the
3 district for an injunction to restrain the person from continuing
4 the violation or the threat of violation, for a civil penalty of
5 not less than \$50 nor more than \$5,000 for each violation and for
6 each day of violation, or for both injunctive relief and civil
7 penalty.

8 (b) At the request of the district, or the general manager
9 authorized by the board, the attorney general shall institute the
10 action. However, the district in its sole discretion may employ
11 attorneys of its choice to institute the action.

12 (c) The board is not required to post bond or other security
13 with the court under this section.

14 (d) On application for injunctive relief and a finding that
15 a person is violating or threatening to violate any provision of
16 this Act or any rule, permit, or other order of the district, the
17 district court shall grant any injunctive relief the facts may
18 warrant.

19 SECTION 44. LEGISLATIVE FINDING OF AUTHORITY. The
20 legislature finds that the requirements of Article XVI, Sections
21 59(d) and (e), of the Texas Constitution have been performed and
22 accomplished and that the legislature has the power and authority
23 to enact this Act.

24 SECTION 45. EMERGENCY. The importance of this legislation
25 and the crowded condition of the calendars in both houses create an
26 emergency and an imperative public necessity that the
27 constitutional rule requiring bills to be read on three several

H.B. No. 2819

1 days in each house be suspended, and this rule is hereby suspended,
2 and that this Act take effect and be in force from and after its
3 passage, and it is so enacted.

H.B. No. 2819

President of the Senate

Speaker of the House

I certify that H.B. No. 2819 was passed by the House on May 16, 1989, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 2819 was passed by the Senate on May 26, 1989, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

President of the Senate

Speaker of the House

I certify that H.B. No. 2819⁽¹⁾ was passed by the House
on May 16⁽²⁾, 1989, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 2819⁽¹⁾ was passed by the Senate
on May 26⁽³⁾, 1989, by the following vote:
Yeas 31⁽⁴⁾, Nays 0⁽⁵⁾

Secretary of the Senate

APPROVED:

Date

Governor

**** Preparation: 'A;CT27;

H. B. No. 2819

By J. Allen

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, and operations of the Fort Bend Subsidence District; providing for civil penalties.

MAR 30 1989

1. Filed with the Chief Clerk.

APR 6 1989

2. Read first time and Referred to Committee on

APR 19 1989

3. Reported ___ favorably (as amended) and sent to Printer at 8:45 pm
(as substituted) APR 27 1989

MAY 1 1989

4. Printed and distributed at 8:27 am

MAY 1 1989

5. Sent to Committee on Calendars at 8:52 am

MAY 12 1989

6. Read second time (amended) passed to third reading (failed) by (Non-Record Vote)
(Record Vote of ___ yeas, ___ nays, ___ present, not voting).

7. Motion to reconsider and table the vote by which H.B. _____ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of ___ yeas, ___ nays, and ___ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of ___ yeas, ___ nays, and ___ present, not voting.

MAY 16 1989

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of ___ yeas, ___ nays, ___ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. _____ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of ___ yeas, ___ nays, and ___ present, not voting).

MAY 16 1989

12. Ordered Engrossed at 3:38 pm

MAY 16 1989

13. Engrossed.

MAY 16 1989

14. Returned to Chief Clerk at 6:56 pm

MAY 17 1989

15. Sent to Senate.

Betty Murray
Chief Clerk of the House

MAY 17 1989

16. Received from the House

MAY 18 1989

17. Read, referred to Committee on NATURAL RESOURCES

MAY 23 1989

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

21. Regular order of business suspended by
(a viva voce vote.)
(___ yeas, ___ nays.)

89 MAY 16 PM 6: 56
HOUSE OF REPRESENTATIVES

22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

MAY 26 1989

23. Read second time Laid before Senate passed to third reading by:
(a viva voce vote)
(_____ yeas, _____ nays.)

24. Caption ordered amended to conform to body of bill.

MAY 26 1989

25. Senate and Constitutional 3-Day Rules suspended by vote of 30 yeas,
1 nays to place bill on third reading and final passage.

MAY 26 1989

26. Read third time and passed by

(a viva voce vote.)
(31 yeas, 0 nays.)

OTHER ACTION:

OTHER ACTION:

Betty King

Secretary of the Senate

5-26-89

27. Returned to the House.

MAY 26 1989

28. Received from the Senate (~~with amendments~~)
(~~as substituted~~)

29. House (Concurred) (Refused to Concur) in Senate (Amendments) by a (Non-Record
(Substitute) Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

30. Conference Committee Ordered.

31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAY 26 1989

32. Ordered Enrolled at 1:45 pm